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~~INTERSTATE COMMERCE COMMISSION~~

CONDITIONAL SALE AGREEMENT

Dated as of April 1, 1976

between

BIRMINGHAM TRUST NATIONAL BANK
not in its individual capacity but
solely as Trustee under an Owner
Trust Agreement dated as of
the date hereof with
SCHULER INDUSTRIES, INC.

and

FMC CORPORATION

CONDITIONAL SALE AGREEMENT dated as of April 1, 1976, between FMC CORPORATION (hereinafter called the Vendor or Builder as more particularly set forth in Article 1 hereof), and BIRMINGHAM TRUST NATIONAL BANK, not in its individual capacity but acting solely as Trustee under an Owner Trust Agreement dated as of the date hereof (hereinafter called the Trust Agreement) with SCHULER INDUSTRIES, INC. (said trust company, so acting, being hereinafter called the Vendee and said corporation being hereinafter called the Beneficiary).

WHEREAS, the Builder agrees to construct, sell and deliver to the Vendee, and the Vendee agrees to purchase, the railroad equipment described in Annex B hereto (hereinafter collectively called the Equipment and individually called a unit of Equipment) which is accepted hereunder by the Vendee as Trustee for the Beneficiary; and

WHEREAS, the Vendee is entering into a lease dated as of the date hereof with SSI RAIL CORP. (hereinafter called the Lessee) in substantially the form annexed hereto as Annex C (hereinafter called the Lease); and

WHEREAS, THE WESTERN SAVING FUND SOCIETY OF PHILADELPHIA, a Pennsylvania banking corporation (hereinafter sometimes called the Assignee or the Vendor) is acting as Investor pursuant to the Participation Agreement dated as of the date hereof (hereinafter called the Participation Agreement) among the Assignee, the Lessee, the Vendee, and the Beneficiary; and

WHEREAS, ITEL CORPORATION (hereinafter called the Guarantor), shall guarantee certain obligations of the Lessee under the Lease, pursuant to a Guaranty Agreement (hereinafter called the Guaranty Agreement) dated as of the date hereof with the Assignee and the Vendee;

NOW, THEREFORE, in consideration of the premises and the mutual promises, covenants and agreements hereinafter set forth, the parties hereto do hereby agree as follows:

ARTICLE 1. Assignment; Definitions. The parties hereto contemplate that the Vendee will furnish that portion of the Purchase Price (as hereinafter defined) for the Equipment as is required under subparagraph (a) of the third paragraph of Article 4 hereof and that an amount equal to the balance of such Purchase Price shall be paid to the Builder by the Assignee pursuant to an Agreement and Assignment dated as of the date hereof between the Builder and the Assignee (such Agreement and Assignment being hereinafter called the Assignment).

The term "Vendor", whenever used in this Agreement, means, before any assignment of its rights hereunder, the party hereto which has manufactured the Equipment and any successor or successors for the time being to its manufacturing properties and business, and, after any such

assignment, both such assignee or assignees for the time being of such particular assigned rights as regards such rights, and also any assignor as regards any rights hereunder that are retained or excluded from any assignment; and the term "Builder", whenever used in this Agreement, means, both before and after any such assignment, the party hereto which has manufactured the Equipment and any successor or successors for the time being to its manufacturing properties and business.

Contemporaneously with any such assignment, the Vendee will assign to the Vendor, as security for the payment and performance of all the Vendee's obligations hereunder, all right, title, and interest of the Vendee in and to the Lease, pursuant to an Assignment of Lease and Agreement in the form of Annex D hereto (hereinafter called the Lease Assignment) and the Lessee shall consent thereto pursuant to a Consent and Agreement in the form attached to Annex D (hereinafter called the Consent).

ARTICLE 2. Construction and Sale. Pursuant to this Agreement, the Builder shall construct the Equipment at its plant set forth in Annex B hereto, and will sell and deliver to the Vendee, and the Vendee will purchase from the Builder and accept delivery of and pay for (as hereinafter provided), the Equipment, each unit of which shall be constructed in accordance with the specifications referred to in Annex B hereto and in accordance with such modifications thereof as may be agreed upon in writing between the Builder, the Vendee, the Lessee and the Assignee (which specifications and modifications, if any, are hereinafter called the Specifications). The design, quality and component parts of each unit of the Equipment shall conform, on the date of completion of manufacture thereof, to all Department of Transportation and Interstate Commerce Commission requirements and specifications and to all standards, if any, recommended by the Association of American Railroads reasonably interpreted as being applicable to railroad equipment of the character of such unit, and each such unit (except to the extent, if any, referred to in Annex A hereto) will be new railroad equipment.

ARTICLE 3. Inspection and delivery. The Builder will deliver the units of the Equipment to the Vendee at the place or places specified in Annex B hereto (or if Annex B does not specify a place or places, at the place or places designated from time to time by the Vendee), freight charges, if any, prepaid, in accordance with the delivery schedule set forth in Annex B hereto; provided, however, that delivery of any unit of the Equipment shall not be made until this Agreement and the Lease have been filed with the Interstate Commerce Commission pursuant to Section 20c of the Interstate Commerce Act and with the respective Registrars of Companies in the Canadian provinces of British Columbia, Saskatchewan, and Alberta pursuant to the respective Conditional Sales Acts of said provinces, and a financing statement with respect to said agreements and the Equipment has been filed with the Registrar of Personal Property Security in the Canadian province of Ontario pursuant to the Personal Property Security Act of Ontario; and provided, further, that the Builder shall

have no obligation to deliver any unit of Equipment hereunder subsequent to the commencement of any proceedings specified in clause (c) of Article 15 hereof or the occurrence of any event of default (as described in Article 15 hereof), or event which, with the lapse of time and/or demand, could constitute such an event of default. The Builder agrees not to deliver any unit of Equipment hereunder following receipt of written notice from the Vendee or the Assignee (a) of the commencement of any such proceedings or the occurrence of any such event, as aforesaid, or (b) that any of the conditions contained in Paragraph 6 or 7 of the Participation Agreement have not been met or waived.

Any Equipment not delivered at the time of receipt by the Builder of the notice specified in the second sentence of the first paragraph of this Article 3 and any Equipment not delivered and accepted hereunder on or prior to May 31, 1976, by reason of failure of condition as provided in the next preceding paragraph or otherwise shall be excluded from this Agreement and the Vendee shall be relieved of its obligation to purchase and pay for such Equipment. If any Equipment shall be excluded herefrom pursuant to the immediately preceding sentence, the parties hereto shall execute an agreement supplemental hereto limiting this Agreement to the Equipment not so excluded herefrom. Pursuant to the Participation Agreement the Lessee has agreed to purchase such excluded Equipment and any Equipment excluded from this Agreement pursuant to the first paragraph of Article 4 hereof from the Builder as provided in Paragraph 1 of the Participation Agreement.

The Builder's obligation as to the time of delivery set forth in Annex B is subject, however, to delays resulting from causes beyond the Builder's reasonable control, including but not limited to acts of God, acts of government such as embargoes, priorities and allocations, war or war conditions, riot or civil commotion, sabotage, strikes, differences with workmen, accidents, fire, flood, explosion, damage to plant, equipment or facilities, delays in receiving necessary materials or delays of carriers or subcontractors, but in no event shall the Vendee be required to accept, purchase, or pay for any of the Equipment delivered after May 31, 1976.

During construction, the Equipment shall be subject to inspection and approval by the authorized inspectors of the Vendee (who may be employees of the Lessee) and the Builder shall grant to such authorized inspectors reasonable access to its plant. The Builder agrees to inspect the materials used in the construction of the Equipment in accordance with the standard quality control practices of the Builder. Upon completion of each unit or a number of units of the Equipment, such unit or units shall be presented to an inspector of the Vendee for inspection at the place specified for delivery of such unit or units, and if each such unit conforms to the Specifications, requirements and standards applicable thereto, such inspector or an authorized representative of the Vendee (who may be an employee of the Lessee) shall execute and deliver to the Builder a certificate of acceptance (hereinafter called the Certificate of Acceptance) stating that such unit or units have been inspected and accepted on behalf of the Vendee and are marked in accordance with Article 9 hereof; provided, however, that the Builder shall

not thereby be relieved of liability for its representations, warranties, and obligations set forth in Articles 2 and 13 hereof.

On delivery and acceptance of each such unit hereunder at the place specified for delivery, the Builder shall have no further responsibility for, nor bear any risk of, any damage to or the destruction or loss of such unit; provided, however, that the Builder shall not thereby be relieved of liability for its representations, warranties and obligations set forth in Articles 2 and 13 hereof.

Notwithstanding the foregoing or any other provision of this Agreement to the contrary, the delivery to and acceptance by or on behalf of the Vendee of any unit of Equipment excluded from this Agreement pursuant to the first paragraph of Article 4 hereof shall be ineffective, ab initio, to create in or transfer to the Vendee any legal or beneficial right or interest in such unit or (except as provided in the first paragraph of Article 4 hereof) to impose on the Vendee any liability, obligation or responsibility with respect thereto; any right or interest in any such unit created in or transferred to or purported to be created in or transferred to, the Vendee shall be held by the Vendee solely as trustee for the benefit of the Lessee.

ARTICLE 4. Purchase Price and Payment. The base price or prices per unit of the Equipment are set forth in Annex B hereto. The term "Purchase Price" as used herein shall mean the base price or prices, as increased or decreased as set forth in the Builder's invoice or invoices delivered to the Vendee, plus inspection charges, freight, and storage charges, if any, and any applicable sales tax set forth in the same or separate invoices also delivered to the Vendee; and, if the Purchase Price exceeds the base price or prices set forth in Annex B by more than 10% or is less than 90% of said base price or prices, the invoice or invoices shall be accompanied by, or have endorsed thereon, the agreement or approval of the Lessee, the Vendee and the Assignee (such invoice or invoices being hereinafter called the Invoices). If on any Closing Date (as hereinafter defined in this Article) the aggregate Purchase Price of Equipment for which settlement has theretofore been and is then being made under this Agreement would, but for the provisions of this sentence, exceed the Maximum Purchase Price specified in Item 5 of Annex A hereto (or such higher amount as the Vendee may at its option agree to prior to delivery of any unit or units of Equipment that, but for such agreement, would be excluded from this Agreement), or if on any Closing Date the Average Cost (as hereinafter defined) would, but for the provisions of this sentence, exceed \$33,000, the Builder (and any assignee of the Builder) and the Vendee will enter into an agreement excluding from this Agreement such unit or units of Equipment then proposed to be settled for and specified by the Vendee, as will, after giving effect to such exclusion, reduce such aggregate Purchase Price under this Agreement to not more than the Maximum Purchase Price specified in Item 5 of Annex A hereto (or such higher amount as aforesaid) and reduce such Average Cost to not more than \$33,000. Average Cost shall mean that amount determined by dividing (x) the aggregate of the Purchase Price for which settlement has theretofore been and is then

being made under this Agreement by (y) the number of units of Equipment for which settlement has theretofore been and is then being made under this Agreement. The Vendee shall take such other steps, including the execution of instruments of transfer, as it may be reasonably requested by the Lessee for the purpose of acknowledging and perfecting the interest of the Lessee in any unit of Equipment so excluded from this Agreement, and the Vendee shall have no further obligation or liability in respect of units so excluded.

The Equipment shall be settled for in such number of groups of units of the Equipment delivered to and accepted by the Vendee as is provided in Item 2 of Annex A hereto (each such group being hereinafter called a Group). The term "Closing Date" with respect to any Group shall mean such date or dates (not earlier than April 1, 1976, and not later than June 15, 1976, such later date being herein called the Cut-Off Date), occurring not more than ten business days following presentation by the Builder to the Vendee of the Invoices and of the Certificate or Certificates of Acceptance for the Equipment and written notice thereof by the Builder to the Lessee, as shall be fixed by the Lessee by written notice delivered to the Vendee and the Assignee at least six business days prior to the Closing Date designated therein. The term "business days" as used herein means calendar days, excluding Saturdays, Sundays and any other day on which banking institutions in New York, New York, Philadelphia, Pennsylvania, San Francisco, California, or Birmingham, Alabama, are authorized or obligated to remain closed.

The Vendee hereby acknowledges itself to be indebted to the Vendor in the amount of, and hereby promises to pay in cash to the Vendor at such place as the Vendor may designate, the Purchase Price of the Equipment, as follows:

(a) on the Closing Date with respect to each Group, (i) an amount equal to 20.7659% of the aggregate Purchase Price of such Group, plus at the Vendee's election (ii) the amount, if any, by which (x) 79.2331% of the Purchase Price of all units of the Equipment covered by this Agreement for which settlement has theretofore and is then being made, as set forth in the Invoice or Invoices therefor (said invoiced prices being herein called the Invoiced Purchase Prices), exceeds (y) the Maximum Conditional Sale Indebtedness specified in Item 6 of Annex A and any amount or amounts previously paid or payable with respect to the Invoiced Purchase Prices pursuant to this clause (ii); and

(b) in 58 consecutive quarterly installments, as hereinafter provided, an amount equal to the aggregate Purchase Price of the units of Equipment for which settlement is then being made, less the aggregate amount paid or payable with respect thereto pursuant to subparagraph (a) of this paragraph.

The portion of the Purchase Price payable pursuant to subparagraph (b) of the preceding paragraph (herein called the Conditional Sale

Indebtedness) shall be payable on each October 15, January 15, April 15, and July 15 commencing October 15, 1976, to and including January 15, 1991 (or if any such date is not a business day, on the next succeeding business day), each such date being hereinafter called a Payment Date. The unpaid balance of the Conditional Sale Indebtedness shall bear interest from and including the Closing Date for each Group in respect of which such indebtedness was incurred until fully paid at the rate of 10-1/2% per annum (the Debt Rate). Such interest shall be payable, to the extent accrued, on July 15, 1976, and interest accrued on and after July 15, 1976, shall be paid on each Payment Date thereafter. The 58 installments of principal payable on each Payment Date shall be calculated so that the aggregate of the principal and interest payable on each Payment Date shall be substantially equal, and such 58 installments of principal will completely amortize the Conditional Sale Indebtedness. The Vendee will furnish to the Vendor and the Lessee promptly after each Closing Date a schedule, in such number of counterparts as shall be requested by the Vendor, showing the respective amounts of principal and interest payable on each Payment Date.

Interest under this Agreement shall be determined on the basis of a 360-day year of 12 30-day months.

The Vendee will pay, to the extent legally enforceable, interest upon all amounts remaining unpaid after the same shall have become due and payable pursuant to the terms hereof at the rate of 12% per annum, or such lesser amount as shall be legally enforceable.

All payments provided for in this Agreement shall be made in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts. Except as provided in Article 7 hereof, the Vendee shall not have the privilege of prepaying any portion of the Conditional Sale Indebtedness prior to the date it becomes due.

The obligation of the Vendee to pay to the Vendor the amount required to be paid pursuant to subparagraph (a) of the third paragraph of this Article 4 with respect to any Group shall be subject to the receipt by the Vendee of the documents required to be furnished by the Builder pursuant to Section 4 of the Assignment in respect of such Group.

Notwithstanding any other provision of this Agreement (including, but not limited to, any provision of Articles 15 and 16 hereof), it is understood and agreed by the Vendor that the liability of the Vendee or any assignee of the Vendee for all payments to be made by it under and pursuant to this Agreement, including any liability arising out of or in connection with the performance of its obligations hereunder and excluding only the obligations set forth in the proviso in the third paragraph of Article 12 hereof and the payments to be made pursuant to subparagraph (a) of the third paragraph of this Article, shall not exceed an

amount equal to, and shall be payable only out of, the "income and proceeds from the Equipment". As used herein the term "income and proceeds from the Equipment" shall mean (i) if one of the events of default specified in Article 15 hereof shall have occurred and while it shall be continuing, so much of the following amounts as are indefeasibly received by the Vendee or any assignee of the Vendee at any time after any such event and during the continuance thereof: (a) all amounts of rental and amounts in respect of Casualty Occurrences (as defined in Article 7 hereof) paid for or with respect to the Equipment pursuant to the Lease and any and all other payments received under Section 10 or any other provision of the Lease and (b) any and all payments and proceeds received for or with respect to the Equipment as the result of the sale, lease or other disposition thereof, after deducting all costs and expenses of such sale, lease or other disposition, and (ii) at any other time only that portion of the amounts referred to in the foregoing clauses (a) and (b) as are indefeasibly received by the Vendee or any assignee of the Vendee and as shall equal the portion of the Conditional Sale Indebtedness (including prepayments thereof required in respect of Casualty Occurrences) and/or interest thereon due and payable on the date such amounts are required to be paid pursuant to the Lease or as shall equal any other payments then due and payable under this Agreement; it being understood that "income and proceeds from the Equipment" shall in no event include amounts referred to in the foregoing clauses (a) and (b) received by the Vendee or any assignee of the Vendee prior to the existence of such an event of default which exceed the amounts required to discharge that portion of the Conditional Sale Indebtedness (including prepayments thereof required in respect of Casualty Occurrences) and/or interest thereon due and payable on the date on which amounts with respect thereto received by the Vendee or any assignee of the Vendee are required to be paid to it pursuant to the Lease or which exceed any other payments due and payable under this Agreement at the time such amounts are payable under the Lease. Notwithstanding anything to the contrary contained in Article 15 and 16 hereof, the Vendor agrees that in the event it shall obtain a judgment against the Vendee for an amount in excess of the amounts payable by the Vendee pursuant to the limitations set forth in this paragraph, it will limit its execution of such judgment to amounts payable pursuant to the limitations set forth in this paragraph. Nothing contained herein limiting the liability of the Vendee shall derogate from the right of the Vendor to proceed against the Equipment for the full unpaid Purchase Price of the Equipment and interest thereon and all other payments and obligations hereunder.

ARTICLE 5 Security Title in the Equipment. The Vendor shall and hereby does retain a security title in the Equipment until the Vendee shall have made all its payments under this Agreement and shall have kept and performed all its agreements herein contained, notwithstanding any provision of this Agreement limiting the liability of the Vendee and notwithstanding the delivery of the Equipment to and the possession and use thereof by the Vendee and the Lessee as provided in this Agreement

and the Lease. Any and all additions to the Equipment and any and all replacements of parts of the Equipment and additions thereto, except as are readily removable without causing material damage thereto, shall constitute accessions to the Equipment and shall be subject to all the terms and conditions of this Agreement and included in the term Equipment as used in this Agreement.

Except as otherwise specifically provided in Article 7 hereof, when and only when the Vendor shall have been paid the full indebtedness in respect of the Purchase Price of the Equipment, together with interest and all other payments as herein provided, absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Vendee without further transfer or action on the part of the Vendor. However, the Vendor, if so requested by the Vendee at that time, will (a) execute a bill or bills of sale for the Equipment releasing its security interest therein to the Vendee or upon its order, free of all liens, security interests and other encumbrances created or retained hereby and deliver such bill or bills of sale to the Vendee at its address referred to in Article 20 hereof, (b) execute and deliver at the same place, for filing, recording or depositing in all necessary public offices, such instrument or instruments in writing as may be necessary or appropriate in order then to make clear upon the public records the title of the Vendee to the Equipment and (c) to pay to the Vendee any money paid to the Vendor pursuant to Article 7 hereof and not theretofore applied as therein provided. The Vendee hereby waives and releases any and all rights, existing or that may be acquired, in or to the payment of any penalty, forfeit or damages for failure to execute and deliver such bill or bills of sale or instrument or instruments or to file any certificate of payment in compliance with any law or statute requiring the filing of the same, except for failure to execute and deliver such bill or bills of sale or instrument or instruments or to file such certificate within a reasonable time after written demand by the Vendee.

ARTICLE 6. Taxes. All payments to be made by the Vendee hereunder will be free of expense to the Vendor for collection or other charges and will be free of expense to the Vendor with respect to the amount of any local, state, federal or foreign taxes (other than taxes measured by net income imposed by the United States, the Commonwealth of Pennsylvania or any local taxing authority of the Commonwealth of Pennsylvania, excess profits taxes and similar taxes) or license fees, assessments, duties, withholdings, fines, penalties, interest or other governmental charges hereafter levied or imposed upon or in connection with or measured by this Agreement or any sale, rental, use, payment, shipment, delivery or transfer of title under the terms hereof (all such expenses, taxes, license fees, assessments, charges, fines and penalties being hereinafter called impositions), all of which such impositions the Vendee assumes and agrees to pay on demand (and does hereby agree to indemnify and hold the Vendor harmless from and against) in addition to the Purchase Price of the Equipment. The Vendee will also pay promptly

all impositions which may be imposed upon the Equipment delivered to it or for the use or operation thereof or upon the earnings arising therefrom (except as provided above) or upon the Vendor solely by reason of its ownership thereof (except as provided above) and will keep at all times all and every part of the Equipment free and clear of all impositions which might in any way affect the security title of the Vendor or result in a lien upon any part of the Equipment; provided, however, that the Vendee shall be under no obligation to pay any impositions of any kind so long as it is contesting in good faith and by appropriate legal or administrative proceedings such impositions and the nonpayment thereof does not, in the reasonable opinion of the Vendor, adversely affect the security title or property or rights of the Vendor in or to the Equipment or otherwise under this Agreement. If any impositions shall have been charged or levied against the Vendor directly and paid by the Vendor or if Vendor elects to make payment of any imposition after demand to Vendee, Vendee shall pay the Vendor an amount which, after taking into account all taxes required to be paid by the Vendor in respect of the receipt thereof under the laws of the United States, a state or local government taxing authority, or a foreign government (after giving credit for any savings in respect of any such taxes by reason of deductions, credits or allowances in respect of the payment of the expenses indemnified against, and of any other such taxes), shall be equal to the amount of such payment. The sum payable pursuant to this Paragraph shall be payable thirty (30) days after Vendor delivers to Vendee reasonable written verification to Vendee that indemnity is due Vendor pursuant to this Paragraph including without limitation, a statement describing in reasonable detail the circumstances requiring indemnification hereunder, and setting forth in reasonable detail the computation of the amount thereof; provided, however, that the Vendee shall not be obligated to reimburse the Vendor for any impositions so paid unless the Vendor shall have been legally liable with respect thereto (as evidenced by an opinion of counsel for the Vendor) or unless the Vendee shall have approved in writing the payment thereof.

ARTICLE 7. Maintenance; Casualty Occurrences. The Vendee shall, at its own cost and expense, maintain and keep each unit of the Equipment in good operating order, repair and condition.

In the event that any unit of the Equipment shall be or become worn out, lost, stolen, destroyed, or, in the opinion of the Vendee or the Lessee, irreparably damaged, from any cause whatsoever, or taken or requisitioned by condemnation or otherwise resulting in loss of possession by the Lessee for a period of 90 consecutive days, except requisition for use by the United States Government (such occurrences being herein called Casualty Occurrences), the Vendee shall, promptly after it shall have determined that such unit has suffered a Casualty Occurrence cause the Vendor to be fully informed in regard thereto. On the next succeeding date for the payment of interest on the Conditional Sale Indebtedness (hereinafter called a Casualty Payment Date), the Vendee shall pay to the Vendor a sum equal to the Casualty Value (as hereinafter defined in this Article) of such unit suffering a Casualty Occurrence as

of the date of such payment and shall file, or cause to be filed, with the Vendor a certificate setting forth the Casualty Value of such unit. Any money paid to the Vendor pursuant to this paragraph shall be applied (after the payment of the interest and principal due on such date) to prepay without penalty or premium, ratably in accordance with the unpaid balance of each installment, the Conditional Sale Indebtedness and the Vendee will promptly furnish to the Vendor and the Lessee a revised schedule of payments of principal and interest thereafter to be made, in such number of counterparts as the Assignee may request. In the event of the requisition for use by the United States Government of any unit of the Equipment, all of the Vendee's obligations hereunder with respect to such unit shall continue to the same extent as if such requisition had not occurred.

Upon payment by the Vendee to the Vendor of the Casualty Value of any unit of the Equipment having suffered a Casualty Occurrence, absolute right to the possession of, title to and property in such unit shall pass to and vest in the Vendee, without further transfer or action on the part of the Vendor, except that the Vendor, if requested by the Vendee, will execute and deliver to the Vendee, at the expense of the Vendee, an appropriate instrument confirming such passage to the Vendee of all Vendor's right, title and interest, and the release of the Vendor's security interest, in such unit, in recordable form, in order that the Vendee may make clear upon the public records the title of the Vendee to such unit.

The Casualty Value of each unit of Equipment suffering a Casualty Occurrence shall be deemed to be that portion of the original Purchase Price thereof remaining unpaid on the appropriate Casualty Payment Date (without giving effect to any prepayment or prepayments theretofore made under this Article with respect to any other unit), plus interest accrued thereon but unpaid as of such Casualty Payment Date. For the purpose of this paragraph, each payment of the Purchase Price in respect of Equipment made pursuant to Article 4 hereof shall be deemed to be a payment on each unit of the Equipment in like proportion as the original Purchase Price of such unit bears to the aggregate original Purchase Price of the Equipment.

If the Vendor shall receive any insurance proceeds or condemnation payments in respect of such units suffering a Casualty Occurrence, the Vendor shall, subject to the Vendor having received payment of the Casualty Value hereunder, pay such insurance proceeds or condemnation payments to the Vendee; if such Casualty Value is not paid on the Casualty Value Date, the Vendor may apply said insurance proceeds or condemnation payment to the amount of such Casualty Value payment due. All insurance proceeds or condemnation payments received by the Vendor in respect of any unit or units of Equipment not suffering a Casualty Occurrence shall be paid to the Vendee upon proof satisfactory to the Vendor that any damage to such unit in respect of which such proceeds were paid has been fully repaired.

ARTICLE 8. Reports and Inspections. On or before March 31, in each year, commencing with the year 1977, the Vendee shall cause to be furnished

to the Vendor an accurate statement (a) setting forth as of the preceding December 31 the amount, description and numbers of all units of the Equipment then subject to this Agreement, the amount, description and numbers of all units of the Equipment that have suffered a Casualty Occurrence during the preceding calendar year or are then undergoing repairs (other than running repairs) or are then withdrawn from use pending such repairs (other than running repairs) and setting forth such other information regarding the condition and state of repair of the Equipment as the Vendor may reasonably request and (b) stating that, in the case of all Equipment repaired or repainted during the period covered by such statement, the numbers and markings required by Article 9 hereof have been preserved or replaced. The Vendor shall have the right, by its agents, to inspect the Equipment and the Lessee's records with respect thereto at such reasonable times as the Vendor may request during the term of this Agreement.

ARTICLE 9. Marking of Equipment. The Vendee will cause each unit of the Equipment to be kept numbered with the road number of the Lessee or the appropriate sublessee of the Lessee, as the case may be, as set forth in Annex B hereto, or, in the case of Equipment not there listed, such road number as shall be set forth in any amendment or supplement hereto extending this Agreement to cover such Equipment, and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of each unit, in letters not less than one inch in height, the words "Ownership subject to a Security Agreement filed under the Interstate Commerce Act, Section 20c, with The Western Saving Fund Society of Philadelphia as Secured Party and Assignee", "Owned by a Company under a Security Agreement Filed under the Interstate Commerce Act, Section 20c" or other appropriate words designated by the Vendor, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the Vendor's interest in the Equipment and its rights under this Agreement. The Vendee will not permit any such unit to be placed in operation or exercise any control or dominion over the same until such markings shall have been made thereon and will replace or will cause to be replaced promptly any such markings which may be removed, defaced or destroyed. The Vendee will not permit the identifying number of any unit of the Equipment to be changed except in accordance with a statement of new number or numbers to be substituted therefor, which statement previously shall have been filed with the Vendor and filed, recorded and deposited by the Vendee in all public offices where this Agreement shall have been filed, recorded and deposited.

In the event of any such assignment or successive assignments by the Vendor of security title to the Equipment and of the Vendor's rights hereunder with respect thereto, the Vendee will, whenever requested by the assignee, change the markings on each side of each unit of the Equipment so as to indicate the security title of such assignee to the Equipment such markings to be specified by such assignee, subject to any requirements of the laws of the jurisdiction in which the Equipment shall be operated. The cost of such markings in the event of an assignment of not less than all the Equipment at the time covered by this

Agreement shall be borne by the Vendee and, in the event of any assignment of less than all such Equipment, such cost shall be borne by such assignee.

Except as provided in the immediately preceding paragraph, the Vendee will not allow the name of any person, association or corporation to be placed on any unit of the Equipment as a designation that might be interpreted as a claim of ownership; provided, however, that the Equipment may be lettered with the names or initials or other insignia customarily used by the Lessee, or its affiliates or sublessees on railroad equipment used by them of the same or similar type for convenience of identification of the rights thereof to use the Equipment as permitted by law.

ARTICLE 10. Compliance with Laws and Rules. During the term of this Agreement, the Vendee will comply, and will cause every lessee or user of the Equipment to comply, in all respects (including, without limitation, with respect to the use, maintenance and operation of the Equipment) with all laws of the jurisdictions in which it or such lessee or user's operations involving the Equipment may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Equipment, to the extent that such laws and rules affect the title, operation or use of the Equipment, and in the event that such laws or rules require any alteration, replacement or modification of or to any part on any unit of the Equipment, the Vendee will conform therewith at its own expense; provided, however, that the Vendee or the Lessee may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Vendor, adversely affect the property or rights of the Vendor under this Agreement.

ARTICLE 11. Possession and Use. The Vendee, so long as an event of default shall not have occurred and be continuing under this Agreement, shall be entitled, from and after delivery of the Equipment by the Builder to the Vendee, to the possession of the Equipment and the use thereof, but only upon and subject to all the terms and conditions of this Agreement.

The parties hereto acknowledge that the Vendee simultaneously is leasing the Equipment to the Lessee as provided in the Lease, and, subject to the Lessee's right of quiet enjoyment set forth in the first sentence of the second paragraph of section 12 of the Lease, the rights of the Lessee and its permitted assigns and sublessees under the Lease shall be subordinated and junior in rank to the rights, and shall be subject to the remedies, of the Vendor under this Agreement. The Lease shall not be amended or terminated (except in accordance with its terms) without the prior written consent of the Vendor.

ARTICLE 12. Prohibition Against Liens. The Vendee will pay or discharge any and all sums claimed by any party from, through or under the

Vendee or its successors or assigns including without limitation claims for taxes, assessments or governmental charges or levies, which, if unpaid, might become a lien, charge or security interest on or with respect to the Equipment, or any unit thereof, or the Vendee's interests in the Lease and the payments to be made thereunder equal or superior to the Vendor's security title therein, and will promptly discharge any such lien, charge or security interest which arises, but shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested in good faith and by appropriate legal or administrative proceedings in any reasonable manner and the nonpayment thereof does not, in the opinion of the Vendor, adversely affect the security interest of the Vendor in or to the Equipment or otherwise under this Agreement. Any amounts paid by the Vendor in discharge of liens, charges or security interests upon the Equipment shall be secured by and under this Agreement.

This covenant will not be deemed breached by reason of liens for taxes, assessments or governmental charges or levies, in each case not due and delinquent, or undetermined or inchoate materialmen's, mechanics', workmen's, repairmen's or other like liens arising in the ordinary course of business and, in each case, not delinquent.

The foregoing provisions of this Article 12 shall be subject to the limitations set forth in the last paragraph of Article 4 hereof and the provisions of Article 21 hereof; provided, however, that the Vendee will pay or discharge any and all claims, liens, charges or security interests claimed by any party from, through or under the Vendee or its successors or assigns, not arising out of the transactions contemplated hereby (but including tax liens arising out of the receipt of the income and proceeds from the Equipment), equal or superior to the Vendor's security interest therein, which, if unpaid, might become a lien, charge or security interest on or with respect to the Equipment, or any unit thereof, or the Vendee's interest in the Lease and the payments to be made thereunder, but the Vendee shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested in good faith and by appropriate legal or administrative proceedings in any reasonable manner and the nonpayment thereof does not, in the opinion of the Vendor, adversely affect the security interest of the Vendor in or to the Equipment or otherwise under this Agreement or in and to the Lease and the payments to be made thereunder.

ARTICLE 13. Indemnities and Warranties. The Vendee agrees to indemnify, protect and hold harmless the Vendor from and against all losses, damages, injuries, liabilities, claims and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including but not limited to counsel fees and expenses, penalties and interest, arising out of or as the result of the entering into or the performance of this Agreement, the retention by the Vendor of title to or a security interest in the Equipment, the ordering, acquisition, use, operation, condition, purchase, delivery, rejection, storage or return of any of the Equipment,

any accident, in connection with the operation, use, condition, possession, storage or return of any of the Equipment resulting in damage to property or injury or death to any person during the period when title thereto remains in the Vendor or the transfer of title to the Equipment by the Vendor pursuant to any of the provisions of this Agreement, except however, in the case of the Builder, any losses, damages, injuries, liabilities, claims and demands whatsoever arising out of any tort, breach of warranty or failure to perform any covenant hereunder by the Builder. The covenant of indemnity shall continue in full force and effect notwithstanding the full payment of the indebtedness in respect of the Purchase Price of, and the release of the security interest in, the Equipment, as provided in Article 5 hereof, or the termination of this Agreement in any manner whatsoever.

The Vendee will bear the responsibility for and risk of, and shall not be released from its obligations hereunder in the event of, any damage to or the destruction or loss of any unit of or all of the Equipment.

The Builder represents and warrants to the Vendee that, at the time of delivery and acceptance of each unit of the Equipment under this Agreement, the Vendee will have good and marketable title to such unit, free and clear of all claims, liens, security interests and other encumbrances of any nature except only the rights of the Vendor under this Agreement and the rights of the Lessee under the Lease.

The agreement of the parties relating to the Builder's warranty of material and workmanship and the agreement of the parties relating to patent indemnification are set forth in Items 3 and 4 of Annex A hereto.

ARTICLE 14. Assignments. The Vendee will not (a) except as provided in Article 11 hereof and Section 12 of the Lease, transfer the right to possession of any unit of the Equipment or (b) sell, assign, transfer or otherwise dispose of its rights under this Agreement without the prior written consent of the Vendor unless such sale, assignment, transfer or disposition is made expressly subject in all respects to the rights and remedies of the Vendor hereunder (including, without limitation, rights and remedies against the Vendee and the Lessee) except to a bank or trust company, with a capital and surplus of not less than \$25,000,000 that is a member of the Federal Deposit Insurance Corporation, and such bank or trust company expressly assumes, in writing, in form satisfactory to the Vendor, all of the obligations of the Vendee hereunder.

All or any of the rights, benefits and advantages of the Vendor under this Agreement, including the right to receive the payments herein provided to be made by the Vendee, may be assigned by the Vendor and re-assigned by any assignee at any time or from time to time. No such assignment shall subject any assignee to, or relieve the Builder from, any of the obligations of the Builder to construct and deliver the Equipment in

accordance herewith or to respond to its warranties and indemnities referred to in Article 13 hereof, or relieve the Vendee of its respective obligations to the Builder contained in Articles 2, 3, 4, 6 and 13 hereof, Annex A hereto and this Article 14, or any other obligation which, according to its terms or context, is intended to survive an assignment.

Upon any such assignment, either the assignor or the assignee shall give written notice to the Vendee and the Lessee, together with a counterpart or copy of such assignment, stating the identity and post office address of the assignee, and such assignee shall, by virtue of such assignment, acquire all the assignor's right, title and interest in and to the Equipment and this Agreement, or in and to a portion thereof, as the case may be, subject only to such reservations as may be contained in such assignment. From and after the receipt by the Vendee of the notification of any such assignment, all payments thereafter to be made by the Vendee under this Agreement shall, to the extent so assigned, be made to the assignee in such manner as it may direct.

The Vendee recognizes that this Agreement will be assigned to the Assignee as provided in the Assignment. The Vendee expressly represents, for the purpose of assurance to the Assignee and any other person, firm or corporation considering the acquisition of this Agreement or of all or any of the rights of the Vendor hereunder, and for the purpose of inducing such acquisition, that the rights of the Assignee to the entire unpaid indebtedness in respect of the Purchase Price of the Equipment or such part thereof as may be assigned together with interest thereon, as well as any other rights hereunder which may be so assigned, shall not be subject to any defense, setoff, counterclaim or recoupment whatsoever arising out of any breach of any obligation of the Builder with respect to the Equipment or the manufacture, construction, delivery or warranty thereof, or with respect to any indemnity herein contained, nor subject to any defense, setoff, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Vendee or the Lessee by the Builder. Any and all such obligations, howsoever arising, shall be and remain enforceable by the Vendee or the Lessee, as the case may be, against and only against the Builder.

ARTICLE 15. Defaults. In the event that any one or more of the following events of default shall occur and be continuing, to wit:

(a) the Vendee shall fail to pay in full any sum payable by the Vendee when payment thereof shall be due hereunder (irrespective of the provisions of Article 4 or 21 hereof or any other provision of this Agreement limiting the liability of the Vendee) and such default shall continue for ten business days after the date such payment is due and payable; or

(b) the Vendee (irrespective of the provisions of Article 4 or 21 hereof or any other provision of this Agreement limiting the liability of the Vendee) or the Lessee shall, for more than 30 days after

the Vendor shall have demanded in writing performance thereof, fail or refuse to comply with any other covenant, agreement, term or provision of this Agreement, or of any agreement entered into concurrently herewith relating to the financing of the Equipment, on its part to be kept and performed or to make provision satisfactory to the Vendor for such compliance; or

(c) any proceeding shall be commenced by or against the Vendee, the Lessee or the Guarantor for any relief which includes, or might result in, any modification of the obligations of the Vendee hereunder or of the Lessee under the Lease and the Consent or the Guarantor under the Guaranty Agreement under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustment of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of such obligations), and, unless such proceeding shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Vendee under this Agreement, of the Lessee under the Lease and the Consent or of the Guarantor under the Guaranty Agreement shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed (whether or not subject to ratification) for the Vendee or the Lessee, as the case may be, or for their respective property in connection with any such proceeding in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees or receiver or receivers, within 30 days after such appointment, if any, or 60 days after such proceeding shall have been commenced, whichever shall be earlier; or

(d) the Vendee shall make or permit any unauthorized assignment or transfer of this Agreement or any interest herein or any unauthorized transfer of the right to possession of any unit of the Equipment; or

(e) an Event of Default shall have occurred under the Lease; or

(f) the Guaranty Agreement shall for any reason cease to be in full force and effect, unless consented to by the Vendor, or the Guarantor shall fail to perform thereunder;

then at any time after the occurrence of such an event of default the Vendor may, upon written notice to the Vendee and the Lessee and upon compliance with any legal requirements then in force and applicable to such action by the Vendor, but subject to the Lessee's right of quiet enjoyment set forth in the first sentence of the second paragraph of Section 12 of the Lease, (i) cause the Lease immediately upon such notice to terminate (and the Vendee acknowledges the right of the Vendor to terminate the Lease),

but without affecting the indemnities which by the provisions of the Lease survive its termination and/or (ii) declare (hereinafter called a Declaration of Default) the entire unpaid Conditional Sale Indebtedness, together with the interest thereon then accrued and unpaid, immediately due and payable, without further demand, and thereafter the aggregate of the unpaid balance of such indebtedness and interest shall bear interest from the date of such Declaration of Default at the rate per annum specified in Article 4 hereof as being applicable to amounts remaining unpaid after becoming due and payable, to the extent legally enforceable. Upon a Declaration of Default, subject to Article 4 hereof, the Vendor shall be entitled to recover judgment for the entire unpaid balance of the Conditional Sale Indebtedness so payable, with interest as aforesaid, and to collect such judgment out of any property of the Vendee, subject to the provisions of Articles 4 and 21 hereof, wherever situated. The Vendee shall promptly notify the Vendor of any event which has come to its attention which constitutes, or with the giving of notice and/or lapse of time could constitute, an event of default under this Agreement.

The Vendor may, at its election, waive any such event of default and its consequences and rescind and annul any Declaration of Default or notice of termination of the Lease by notice to the Vendee and the Lessee in writing to that effect, and thereupon the respective rights of the parties shall be as they would have been if no such event of default had occurred and no Declaration of Default or notice of termination of the Lease had been made or given. Notwithstanding the provisions of this paragraph, it is expressly understood and agreed by the Vendee that time is of the essence of this Agreement and that no such waiver, rescission or annulment shall extend to or affect any other or subsequent default or impair any rights or remedies consequent thereon.

ARTICLE 16. Remedies. At any time during the continuance of a Declaration of Default, the Vendor may, and upon such further notice, if any, as may be required for compliance with any mandatory legal requirements then in force and applicable to the action to be taken by the Vendor, but subject to the Lessee's right of quiet enjoyment set forth in the first sentence of the second paragraph of Section 12 of the Lease, take or cause to be taken, by its agent or agents, immediate possession of the Equipment, or one or more of the units thereof, without liability to return to the Vendee any sums theretofore paid and free from all claims whatsoever, except as hereinafter in this Article 16 expressly provided, and may remove the same from possession and use of the Vendee or any other person and for such purpose may enter upon the premises of the Vendee or any other premises where the Equipment may be located and may use and employ in connection with such removal any supplies, services and aids and any available trackage and other facilities or means of the Vendee, subject to all mandatory requirements of due process of law.

In case the Vendor shall demand possession of the Equipment pursuant to this Agreement and shall designate a reasonable point or points for the

delivery of the Equipment to the Vendor, the Vendee shall, at its own expense and risk:

(a) forthwith and in the usual manner (including but not by way of limitation, causing prompt telegraphic and written notice to be given to the Association of American Railroads and all railroads to which any unit or units of the Equipment have been interchanged to return the unit or units so interchanged) cause the Equipment to be placed upon such storage tracks as the Vendor reasonably may designate;

(b) permit the Vendor to store the Equipment on such tracks at the risk of the Vendee without charge for rent or storage until the Equipment has been sold, leased or otherwise disposed of by the Vendor; and

(c) cause the Equipment to be transported to any reasonable place on such lines of railroad as the Vendor may designate or to any connecting carrier for shipment, all as directed by the Vendor.

During any storage period, the Vendee will, at its own cost and expense, insure, maintain and keep each such unit in good order and repair and will permit the inspection of the Equipment by the Vendor, the Vendor's representatives and prospective purchasers, lessees and users. This agreement to deliver the Equipment and furnish facilities as hereinbefore provided is of the essence of the agreement between the parties, and, upon application to any court of equity having jurisdiction in the premises, the Vendor shall be entitled to a decree against the Vendee requiring specific performance hereof. The Vendee hereby expressly waives any kind and all claims against the Vendor and its agent or agents for damages of whatever nature in connection with any retaking of any unit of the Equipment in any reasonable manner.

At any time during the continuance of a Declaration of Default, the Vendor (after retaking possession of the Equipment as hereinbefore in this Article 16 provided) may, at its election and upon such notice as is hereinafter set forth, retain the Equipment in satisfaction of the entire Conditional Sale Indebtedness and make such disposition thereof as the Vendor shall deem fit. Written notice of the Vendor's election to retain the Equipment shall be given to the Vendee and the Lessee by telegram or registered mail, addressed as provided in Article 20 hereof, and to any other persons to whom the law may require notice, within 30 days after such Declaration of Default. In the event that the Vendor should elect to retain the Equipment and no objection is made thereto within the 30-day period described in the second proviso below, all the Vendee's rights in the Equipment shall thereupon terminate and all payments made by the Vendee or for its account may be retained by the Vendor as compensation for the use of the Equipment; provided, however, that if the Vendee, before the expiration of the 30-day period described in the proviso below, should pay or cause to be paid to the Vendor the total unpaid balance of the Conditional Sale Indebtedness, together with

interest thereon accrued and unpaid and all other payments due under this Agreement, then in such event absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Vendee; provided, further, that if the Vendee, the Lessee or any other persons notified under the terms of this paragraph object in writing to the Vendor within 30 days from the receipt of notice of the Vendor's election to retain the Equipment, then the Vendor may not so retain the Equipment, but shall sell, lease or otherwise dispose of it or continue to hold it pending sale, lease or other disposition as hereinafter provided or as may otherwise be permitted by law. If the Vendor shall not have given notice to retain as hereinabove provided or notice of intention to dispose of the Equipment in any other manner, it shall be deemed to have elected to sell the Equipment in accordance with the provisions of this Article 16.

At any time during the continuance of a Declaration of Default, the Vendor, with or without retaking possession thereof, at its election and upon reasonable notice to the Vendee, the Lessee and any other persons to whom the law may require notice of the time and place, may sell the Equipment, or one or more of the units thereof, free from any and all claims of the Vendee, the Lessee or any other party claiming from, through or under the Vendee or the Lessee, at law or in equity, at public or private sale and with or without advertisement as the Vendor may determine; provided, however, that if, prior to such sale and prior to the making of a contract for such sale, the Vendee should tender full payment of the total unpaid balance of the Conditional Sale Indebtedness, together with interest thereon accrued and unpaid and all other payments due under this Agreement as well as expenses of the Vendor in retaking possession of, removing, storing, holding and preparing the Equipment for, and otherwise arranging for, the sale and the Vendor's reasonable attorneys' fees, then upon receipt of such payment, expenses and fees by the Vendor, absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Vendee. The proceeds of such sale or other disposition, less the attorneys' fee and any other expenses incurred by the Vendor in retaking possession of, removing, storing, holding, preparing for sale and selling or otherwise disposing of the Equipment, shall be credited on the amount due to the Vendor under the provisions of this Agreement.

Any sale hereunder may be held or conducted at Philadelphia, Pennsylvania at such time or times as the Vendor may specify (unless the Vendor shall specify a different place or places, in which case the sale shall be held at such place or places as the Vendor may specify), in one lot and as an entirety or in separate lots and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner as the Vendor may determine, so long as such sale shall be in a commercially reasonable manner. The Vendor, the Vendee or the Lessee may bid for and become the purchaser of the Equipment, or any unit thereof, so offered for sale. The Vendee and the Lessee shall be given written notice of such sale not less than ten days prior thereto, by telegram or

registered mail addressed as provided in Article 20 hereof. If such sale shall be a private sale (which shall be deemed to mean only a sale where an advertisement for bids has not been published in a newspaper of general circulation or a sale where less than 3 railroads have been solicited in writing to submit bids), it shall be subject to the rights of the Lessee and the Vendee to purchase or provide a purchaser, within ten days after notice of the proposed sale price, at the same price offered by the intending purchaser or a better price. In the event that the Vendor shall be the purchaser of the Equipment, it shall not be accountable to the Vendee or the Lessee (except to the extent of surplus money received as hereinafter provided in this Article 16), and in payment of the purchase price therefor the Vendor shall be entitled to have credited on account hereof all or any part of sums due to the Vendor hereunder. From and after the date of any such sale, the Vendee shall pay to the Vendor an amount equal to the interest rate on the unpaid Conditional Sale Indebtedness with respect to such unit which shall not have been assembled, as hereinabove provided, by the date of such sale for each day from the date of such sale to the date of delivery to the purchaser at such sale.

Each and every power and remedy hereby specifically given to the Vendor shall be in addition to every other power and remedy hereby specifically given or now or hereafter existing at law or in equity, and each and every power and remedy may be exercised from time to time and simultaneously and as often and in such order as may be deemed expedient by the Vendor. All such powers and remedies shall be cumulative, and the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay or omission of the Vendor in the exercise of any such power or remedy and no renewal or extension of any payments due hereunder shall impair any such power or remedy or shall be construed to be a waiver of any default or an acquiescence therein. Any extension of time for payment hereunder or other indulgence duly granted to the Vendee or the Lessee shall not otherwise alter or affect the Vendor's rights or the Vendee's obligations hereunder. The Vendor's acceptance of any payment after it shall have become due hereunder shall not be deemed to alter or affect the Vendee's obligations or the Vendor's rights hereunder with respect to any subsequent payments or default therein.

If, after applying all sums of money realized by the Vendor under the remedies herein provided, there shall remain any amount due to it under the provisions of this Agreement, the Vendee shall pay the amount of such deficiency to the Vendor upon demand to the date of payment at the rate per annum specified in Article 4 hereof as being applicable to amounts remaining unpaid after becoming due and payable, and, if the Vendee shall fail to pay such deficiency, the Vendor may bring suit therefor and shall, subject to the limitations of the last paragraph of Article 4 hereof, be entitled to recover a judgment therefor against the Vendee. If, after applying as aforesaid all sums realized by the Vendor, there shall remain a surplus in the possession of the Vendor, such surplus shall be paid to the Vendee.

The Vendee will pay all reasonable expenses, including attorneys' fees, incurred by the Vendor in enforcing its remedies under the terms of this Agreement. In the event that the Vendor shall bring any suit to enforce any of its rights hereunder and shall be entitled to judgment, then in such suit the Vendor may recover reasonable expenses, including reasonable attorneys' fees, and the amount thereof shall be included in such judgment.

The foregoing provisions of this Article 16 are subject in all respects to all mandatory legal requirements at the time in force and applicable thereto.

ARTICLE 17. Applicable State Laws. Any provision of this Agreement prohibited by any applicable law of any jurisdiction (which is not overridden by applicable federal law) shall as to such jurisdiction be ineffective, without modifying the remaining provisions of this Agreement. Where, however, the conflicting provisions of any such applicable law may be waived, they are hereby waived by the Vendee to the full extent permitted by law, it being the intention of the parties hereto that this Agreement shall be deemed to be a conditional sale and enforced as such.

Except as otherwise provided in this Agreement, the Vendee, to the full extent permitted by law, hereby waives all statutory or other legal requirements for any notice of any kind, notice of intention to take possession of or to sell or lease the Equipment, or any one or more units thereof, and any other requirements as to the time, place and terms of the sale or lease thereof, any other requirements with respect to the enforcement of the Vendor's rights under this Agreement and any and all rights of redemption.

ARTICLE 18. Recording. The Vendee will cause this Agreement, any assignments hereof and any amendments or supplements hereto or thereto to be filed and recorded in accordance with Section 20c of the Interstate Commerce Act and the Vendee will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, deposit and record any and all further instruments required by law or reasonably requested by the Vendor for the purpose of proper protection, to the satisfaction of counsel for the Vendor, of its interest in the Equipment and its rights under this Agreement or for the purpose of carrying out the intention of this Agreement; and the Vendee will promptly furnish to the Vendor certificates or other evidence of such filing, registering, depositing and recording satisfactory to the Vendor.

ARTICLE 19. Article Headings; Effect and Modification of Agreement. All article headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

Except for the Participation Agreement, this Agreement, including the Annexes hereto, exclusively and completely states the rights of the

Vendor and the Vendee with respect to the Equipment and supersedes all other agreements, oral or written, with respect to the Equipment. No variation or modification of this Agreement and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized representatives of the Vendor and the Vendee.

ARTICLE 20. Notice. Any notice hereunder to any of the parties designated below shall be deemed to be properly served if delivered or mailed to it by first class mail, postage prepaid, at the following addresses:

(a) to the Vendee, at P.O. Box 2554, Birmingham, Alabama 35290, Attention: Carl B. Smith, Vice President, with copies to the Beneficiary at P.O. Box 5366, Birmingham, Alabama 35207, Attention: Jerry D. Hart, Vice President-Finance and to ITEL Leasing Corporation, One Embarcadero Center, San Francisco, California 94111, Attention: Contract Administration,

(b) to the Lessee, at Two Embarcadero Center, San Francisco, California 94111, Attention: President,

(c) to the Builder, at the address specified in Item 1 of Annex A hereto,

(d) to the Assignee at Western Savings Bank Building, Broad and Chestnut Streets, Philadelphia, Pennsylvania 19107, Attention: John W. York, Vice President,

(e) to the Beneficiary, at the address specified in clause (a) above,

(f) to any assignee of the Vendor, or of the Vendee, at such address as may have been furnished in writing to the Vendee, or the Vendor, as the case may be, and to the Lessee, by such assignee,

or at such other address as may have been furnished in writing by such party to the other parties to this Agreement.

ARTICLE 21. Immunities; Satisfaction of Undertakings. No recourse shall be had in respect of any obligation due under this Agreement, or referred to herein, against any incorporator, stockholder, director or officer, as such, past, present or future, of the parties hereto, whether by virtue of any constitutional provision, statute or rule of law, or by enforcement of any assessment or penalty or otherwise, all such liability, whether at common law, in equity, by any constitutional provision, statute or otherwise, of such incorporators, stockholders, directors or officers, as such, being forever released as a condition of and as consideration for the execution of this Agreement.

The obligations of the Vendee under the second paragraph of Article 16 and under Articles 3, 6 7 (other than the second and third sentences

of the second paragraph thereof), 8, 9, 10, 12 (other than the proviso to the last paragraph thereof), 13 and 18 hereof shall be deemed in all respects satisfied by the Lessee's undertakings contained in the Lease. The Vendee shall not have any responsibility for the Lessee's failure to perform such obligations, but if the same shall not be performed they shall constitute the basis for an event of default hereunder pursuant to Article 15 hereof. No waiver or amendment of the Lessee's undertakings under the Lease shall be effective unless joined in by the Vendor.

It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that each of and all the representations, covenants, undertakings and agreements herein made on the part of the Vendee are made and intended not as personal representations, covenants, undertakings and agreements by Birmingham Trust National Bank for the purpose or with the intention of binding said bank personally but are made and intended for the purpose of binding the Trust Estate as such term is used in the Trust Agreement, and this Agreement is executed and delivered by said bank not in its own right but solely in the exercise of the powers expressly conferred on it as trustee under the Trust Agreement; and except in the case of negligence or wilful misconduct no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against said bank on account of this Agreement or on account of any representations, covenants, undertakings or agreements of the Vendee. The provisions of this paragraph shall inure to the benefit of any successor trustee under the Trust Agreement.

ARTICLE 22. Law Governing. The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of the Commonwealth of Pennsylvania; provided, however, that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act and such additional rights arising out of the filing, recording or deposit hereof, if any, and of any assignment hereof as shall be conferred by the laws of the several jurisdictions in which this Agreement or any assignment hereof shall be filed, recorded or deposited.

ARTICLE 23. Execution. This Agreement may be executed in any number of counterparts, such counterparts together constituting but one and the same contract, but the counterpart delivered to the Assignee pursuant to the Assignment shall be deemed the original and all other counterparts shall be deemed duplicates thereof. Although for convenience this Agreement is dated as of the date first above written, the actual date or dates of execution hereof by the parties hereto is or

are, respectively, the date or dates stated in the acknowledgements hereto annexed.

IN WITNESS WHEREOF, the parties hereto have executed or caused this instrument to be executed all as of the date first above written.

FMC CORPORATION

[Corporate Seal]

By Daniel C. Smith
Vice President

Attest:

P. L. Day
Assistant Secretary

BIRMINGHAM TRUST NATIONAL BANK,
not in its individual capacity but
solely as Trustee

[Seal]

By _____
Authorized Officer

Attest:

Authorized Officer

are, respectively, the date or dates stated in the acknowledgements hereto annexed.

IN WITNESS WHEREOF, the parties hereto have executed or caused this instrument to be executed all as of the date first above written.

FMC CORPORATION

[Corporate Seal]

By _____
Vice President

Attest:

Assistant Secretary

BIRMINGHAM TRUST NATIONAL BANK,
not in its individual capacity but
solely as Trustee

[Seal]

By Carl B. Smith
Authorized Officer

Attest:

Richard R. De
Authorized Officer

STATE OF ILLINOIS,)

) ss.

COUNTY OF COOK,)

On this 9th day of April, 1976, before me personally appeared Daniel C. Smith, to me personally known, who, being by me duly sworn, says that he is Vice President of EMC CORPORATION that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Abraham A. Lewis
Notary Public in and for the State
of Illinois residing at

Chicago, Ill.
My Commission Expires January 1, 1978

My Commission expires _____

~~STATE OF ALABAMA,)~~

~~) ss.~~

~~COUNTY OF JEFFERSON.)~~

On this _____ day of _____, 1976, before me personally appeared _____, to me personally known, who, being by me duly sworn, says that he is an authorized officer of BIRMINGHAM NATIONAL TRUST BANK, a national banking association, that one of the seals affixed to the foregoing instrument is the seal of said association, that said instrument was signed and sealed on behalf of said association by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said association.

Notary Public in and for the State
of Alabama residing at _____

~~My Commission expires _____~~

STATE OF ILLINOIS,)

COUNTY OF COOK,)

ss.

On this _____ day of _____, 1976, before me personally appeared _____, to me personally known, who, being by me duly sworn, says that he is Vice President of FMC CORPORATION that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public in and for the State
of Illinois residing at _____

My Commission expires _____

STATE OF ALABAMA,)

COUNTY OF JEFFERSON,)

ss.

On this 19th day of April, 1976, before me personally appeared CARL B. SMITH, to me personally known, who, being by me duly sworn, says that he is an authorized officer of BIRMINGHAM NATIONAL TRUST BANK, a national banking association, that one of the seals affixed to the foregoing instrument is the seal of said association, that said instrument was signed and sealed on behalf of said association by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said association.

Bentham M. Skelton
Notary Public in and for the State
of Alabama residing at P.O. Box 2557

MY COMMISSION EXPIRES OCTOBER 29, 1978

My Commission expires _____

Annex A

to

Conditional Sale Agreement

Item 1: FMC Corporation, a Delaware corporation, having an address at 4700 Northwest Front Avenue, Box 3616, Portland, Oregon 97208.

Item 2: The Equipment shall be settled for in not more than one Group of units of the Equipment delivered to and accepted by the Vendee unless a greater number shall be agreed to by the parties hereto.

Item 3: The Builder warrants that on the date of delivery the Equipment will meet the specifications set forth, and except for articles and materials specified by Vendee and not manufactured by the Builder warrants the Equipment will be free from defects in material and workmanship under normal use and service for one year from the date of delivery. THE FOREGOING WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED INCLUDING THOSE OF MERCHANTABILITY OR FITNESS FOR ANY PURPOSE NOT EXPRESSLY SET FORTH HEREIN.

Any claim by Vendee with reference to the Equipment shall be deemed waived unless submitted in writing to Builder within ten (10) days from the date Vendee discovered, or by reasonable inspection should have discovered, and claimed breach of the foregoing warranty. Any cause of action for breach of the foregoing warranty must be brought within one year from the date the alleged breach occurs. The period of guarantee on a spare part shall commence on the date the part is placed in service by the Vendee and shall terminate one year thereafter.

Builder's liability shall be limited to repairing or replacing defective parts, or at Builder's option, to refunding the purchase price of such products or parts. At Builder's request Vendee will send, at Vendee's expense, any allegedly defective parts to the plant which manufactured them. During the effective period of the warranty set forth above, Builder will not repair or replace any defective parts until it has given Builder a reasonable opportunity to inspect them.

The Builder further agrees with the Vendee that neither the inspection as provided in Section 2 of the Agreement, nor any examination, nor the acceptance of any Units of the Equipment as provided in said Section 2 shall be deemed a waiver or a modification by the Vendee of any of its rights under this Item 3.

Item 4: Except to the extent the Builder is obligated under this Agreement to indemnify, protect and hold harmless each assignee of

any rights of the Builder under the Agreement, the Vendee agrees to indemnify, protect and hold harmless each such assignee from and against any and all liabilities, claims, demands, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against each such assignee because of the use in or about the construction or operation of the Equipment, or any Unit thereof, of any design, article or material which infringes or is claimed to infringe on any patent or other right.

Builder shall defend any suit brought against Vendee on the ground that use of the Equipment furnished hereunder, except for articles, materials, and designs furnished or specified by Vendee, infringes any United States Patent existing on the date of this Agreement. Builder shall pay the amount of any judgment that may be awarded against Vendee in any such suit provided that Vendee shall have made all payments due under this Agreement and shall (a) promptly deliver to Builder all infringement notices and other papers received by or served upon Vendee, (b) permit Builder to defend or compromise such suit as Builder deems advisable, and (c) assist in every reasonable way in the conduct of the defense.

If a court of competent jurisdiction from which no appeal can be taken shall enjoin Vendee from using the Equipment for the intended purpose on the ground that use of the Equipment infringes any United States Patent, or if Builder is otherwise satisfied that use of the Equipment infringes any United States patent, at its option, Builder may either (a) procure for Vendee a license to continue using the Equipment, (b) modify the Equipment to make it noninfringing without seriously impairing its performance, (c) replace the Equipment with equipment that is substantially equivalent but noninfringing, or (d) repurchase the Equipment, in which event Builder shall refund to Vendee the purchase price less depreciation at the rate of 7% per year. The foregoing sets forth Builder's entire liability to Vendee for patent infringement based on the possession and use of the Equipment by Vendee. Builder shall have no obligation arising out of any patent infringement claims directed to a process or a method.

Vendee will defend and indemnify against any claims, costs, liabilities or expenses for or by reason of the infringement of any United States Patent arising from the manufacture of any equipment in accordance with specifications furnished by Vendee or from the sale of such equipment.

Item 5: The Maximum Purchase Price referred to in Article 4 of the Conditional Sale Agreement to which this Annex A is attached is \$3,300,000.

Item 6: The Maximum Conditional Sale Indebtedness referred to in Article 4 of the Conditional Sale Agreement to which this Annex A is attached is \$2,640,000.

Annex B
to
Conditional Sale Agreement

<u>Type</u>	<u>Builder's Specifi- cations</u>	<u>Builder's Plant</u>	<u>Quantity</u>	<u>Lessee's/Sub- lessee's Num- ber (Both Inclusive)</u>	<u>Estimated Unit Base Price</u>	<u>Estimated Total Base Price</u>	<u>Estimated Time and Place of Delivery</u>
50' XM Box- cars	FMC Speci- fication 17760, dated February 1976 and Drawing #A01000010	FMC Corpora- tion Marine and Rail Equip- ment Divi- sion, Portland, Oregon	100	MTW 4000-4049* SRN 5150-5199**	\$30,000	\$3,000,000	May 1976; Tomahawk, Wisconsin for MTW 4000-4049; Bessemay, Texas for SRN 5150- 5199

* Road Numbers of Marinette, Tomahawk & Western Railroad

** Road Numbers of Sabine River & Northern Railroad Company

This Consent and Agreement, when accepted by the Vendor by signing the acceptance at the foot hereof, shall be deemed to be a contract under the laws of the Commonwealth of Pennsylvania and, for all purposes, shall be construed in accordance with the laws of said state.

SSI RAIL CORP., as Lessee

[Corporate Seal]

By _____
President

Attest:

Secretary

The foregoing Consent and Assignment is hereby accepted, as of the _____ day of _____, 1976.

THE WESTERN SAVING FUND SOCIETY OF
PHILADELPHIA

By _____
Vice President

CONSENT AND AGREEMENT

The undersigned, SSI Rail Corp., a Delaware corporation (hereinafter called the Lessee), the Lessee named in the Lease (hereinafter called the Lease) referred to in the foregoing Assignment of Lease and Agreement (hereinafter called the Lease Assignment), hereby (a) acknowledges receipt of a copy of the Lease Assignment and (b) consents to all the terms and conditions of the Lease Assignment and agrees that:

(1) it will pay all rentals, casualty payments, liquidated damages, indemnities and other moneys provided for in the Lease (which moneys are hereinafter called the Payments) due and to become due under the Lease or otherwise in respect of the Units leased thereunder, directly to The Western Saving Fund Society of Philadelphia, (hereinafter called the Vendor), the assignee named in the Lease Assignment, at Western Saving Bank Building, Broad and Chestnut Streets, Philadelphia, Pennsylvania 19107, Attention: Treasurer (or at such other address as may be furnished in writing to the Lessee by the Vendor), and the undersigned agrees that if it fails for any reason whatsoever to pay to the Vendor on the respective dates and times set forth in the Lease any Payment, it agrees to pay on such dates and at such times amounts equal to such Payments which the undersigned shall not theretofore have paid, it being understood that the undersigned's obligation to make Payments or payment of amounts equal to such Payments is absolute and unconditional;

(2) the Vendor shall be entitled to the benefits of, and to receive and enforce performance of, all the covenants to be performed by the Lessee under the Lease as though the Vendor were named therein as the Lessor;

(3) the Vendor shall not, by virtue of the Lease Assignment or this Consent and Agreement, be or become subject to any liability or obligation under the Lease or otherwise; and

(4) the Lease shall not, without the prior written consent of the Vendor, be terminated or modified, nor shall any action be taken or omitted by the Lessee the taking or omission of which might result in an alteration or impairment of the Lease or the Lease Assignment or this Consent and Agreement or of any of the rights created by any thereof.

(5) The Payments, or sums equivalent to such Payments, shall not be subject to any right of set-off or counterclaim or other defense which the undersigned may have against the Lessor or any other person, and the payment thereof to the Vendor shall be final.

STATE OF PENNSYLVANIA,)
) ss.
COUNTY OF PHILADELPHIA..)

On this _____ day of _____, 1976, before me personally appeared _____, to me personally known, who, being by me duly sworn, says that he is the _____ of THE WESTERN SAVING FUND SOCIETY OF PHILADELPHIA, that one of the seals affixed to the foregoing instrument is the corporate seal of said company and that said instrument was signed and sealed on behalf of said company by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said company.

NOTARY PUBLIC in and for the State
of Pennsylvania residing at _____

[Notarial Seal]
My Commission expires _____

STATE OF ALABAMA,)
) ss.
COUNTY OF JEFFERSON.)

On this _____ day of _____, 1976, before me personally appeared _____, to me personally known, who, being by me duly sworn, says that he is the an authorized officer of BIRMINGHAM TRUST NATIONAL BANK, a national banking association, that one of the seals affixed to the foregoing instrument is the seal of said association and that said instrument was signed and sealed on behalf of said association by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said association.

NOTARY PUBLIC in and for the State
of Alabama residing at _____

[Notarial Seal]
My Commission expires _____

ANNEX D TO
CONDITIONAL SALE AGREEMENT

ASSIGNMENT OF LEASE AND AGREEMENT dated as of April 1, 1976 (hereinafter called the Assignment), by and between BIRMINGHAM TRUST NATIONAL BANK (hereinafter called the Lessor or the Vendee) not in its individual capacity but solely as Trustee under the Owner Trust Agreement dated as of the date hereof (hereinafter called the Trust Agreement) with SCHULER INDUSTRIES, INC. (hereinafter called the Beneficiary) and THE WESTERN SAVING FUND SOCIETY OF PHILADELPHIA, (hereinafter called the Vendor or the Investor).

WHEREAS, the Vendee is entering into a Conditional Sale Agreement dated as of the date hereof (hereinafter called the Security Documentation) with FMC CORPORATION (hereinafter called the Builder), providing for the sale to the Vendee of such units of railroad equipment (hereinafter called the Units) described in the Annexes thereto as are delivered to and accepted by the Vendee thereunder;

WHEREAS, the Lessor and SSI Rail Corp. (hereinafter called the Lessee) have entered into a Lease of Railroad Equipment dated as of the date hereof (hereinafter called the Lease), providing for the leasing by the Lessor to the Lessee of the Units; and

WHEREAS, in order to provide security for the obligations of the Lessor under the Security Documentation and as an inducement to the Vendor to invest in the Conditional Sale Indebtedness (as that term is defined in the Security Documentation), the Lessor agrees to assign for security purposes its rights in, to and under the Lease to the Vendor;

NOW, THEREFORE, in consideration of the premises and of the payments to be made and the covenants hereinafter mentioned to be kept and performed, the parties hereto agree as follows:

1. The Lessor hereby assigns, transfers and sets over unto the Vendor, as collateral security for the payment and performance of the obligations of the Lessor as Vendee under the Security Documentation, all the Lessor's right, title and interest, powers, privileges, and other benefits under the Lease, including, without limitation, the immediate right to receive and collect all rentals, profits and other sums payable to or receivable by the Lessor from the Lessee under or pursuant to the provisions of the Lease whether as rent, casualty payment, indemnity, liquidated

ANNEX C
TO
CONDITIONAL SALE AGREEMENT

LEASE OF RAILROAD EQUIPMENT

Dated as of April 1, 1976

between

SSI RAIL CORP.

and

BIRMINGHAM TRUST NATIONAL BANK,
not in its individual capacity,
but solely as Trustee under an
Owner Trustee Agreement dated as
of the date hereof with
SCHULER INDUSTRIES, INC.

LEASE OF RAILROAD EQUIPMENT dated as of April 1, 1976, between SSI RAIL CORP., a Delaware corporation (hereinafter called the Lessee), and BIRMINGHAM TRUST NATIONAL BANK, not in its individual capacity but solely as Trustee under an Owner Trust Agreement dated as of the date hereof (hereinafter called the Trust Agreement) with SCHULER INDUSTRIES, INC. (said Trust Company so acting hereinafter called the Lessor; said corporation being hereinafter called the Beneficiary).

WHEREAS, the Lessor is entering into a conditional sale agreement dated as of the date hereof with FMC Corporation a Delaware corporation (hereinafter called the Builder) (such agreement being hereinafter called the Security Documentation), wherein the Builder has agreed to manufacture, sell and deliver to the Lessor the units of railroad equipment described in Schedule A hereto (hereinafter called the Equipment);

WHEREAS, the Builder is assigning its interests in the Security Documentation to The Western Saving Fund Society of Philadelphia, as Investor (said Investor being hereinafter together with its successors and assigns called the Vendor) under a Participation Agreement dated as of the date hereof (hereinafter called the Participation Agreement) with the Lessee, the Lessor, and the Beneficiary; and

WHEREAS, the Lessee desires to lease such number of units of the Equipment as are delivered and accepted and settled for under the Security Documentation (hereinafter called the Units) at the rentals and for the terms and upon the conditions hereinafter provided;

WHEREAS, ITEL Corporation (hereinafter called the Guarantor) will guarantee Lessee's performance hereunder pursuant to a Guaranty Agreement dated as of the date hereof with the Vendor and the Lessor (hereinafter called the Guaranty Agreement);

NOW, THEREFORE, in consideration of the premises and of the rentals to be paid and the covenants hereinafter mentioned to be kept and performed by the Lessee, the Lessor hereby leases the Units to the Lessee upon the following terms and conditions:

Section 1. Net Lease. This Lease is a net lease and the Lessee's obligations to pay rent hereunder shall be absolute and unconditional and Lessee shall not be entitled to any abatement of rent, reduction thereof or setoff against rent, including, but not limited to, abatements, reductions or setoffs due or alleged to be due by reason of any past, present or future claims of the Lessee against the Lessor under this Lease or under the Security Documentation, or against the builder or

the Vendor or otherwise; nor, except as otherwise expressly provided herein, shall this Lease terminate, or the respective obligations of the Lessor or the Lessee be otherwise affected, by reason of any defect in or damage to or loss of possession or loss of use or destruction of all or any of the Units from whatsoever cause, any liens, encumbrances or rights of others with respect to any of the Units, the prohibition of or other restriction against the Lessee's use of all or any of the Units, the interference with such use by any person or entity, the invalidity or unenforceability or lack of due authorization of this Lease, any insolvency of or any bankruptcy, reorganization or similar proceeding against the Lessee, or for any other cause whatsoever, without limitation, whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other amounts payable by the Lessee hereunder shall continue to be payable in all events in the manner and at the times herein provided unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease. To the extent permitted by applicable law, the Lessee hereby waives any and all rights which it may now have or which at any time hereafter may be conferred upon it, by statute or otherwise, to terminate, cancel, quit or surrender the lease of any of the Units except in accordance with the express terms hereof. Each rental or other payment made by the Lessee hereunder shall be final and the Lessee shall not seek to recover all or any part of such payment from the Lessor for any reason whatsoever.

Section 2. Delivery and Acceptance of Units. The Lessor hereby appoints the Lessee its agent for inspection and acceptance of the Units pursuant to the Security Documentation. The Lessor will cause each Unit to be delivered to the Lessee at the point or points within the United States of America at which such Unit is delivered to the Lessor under the Security Documentation. Upon such delivery, the Lessee will cause an employee or an Agent of the Lessee to inspect the same, and if such Unit is found to be acceptable, to accept delivery of such Unit and the Lessee shall execute and deliver to the Lessor a certificate of acceptance substantially in the form attached hereto in Schedule C (hereinafter called the Certificate of Acceptance) in accordance with the provisions of Article 3 of the Security Documentation, stating that such Unit has been inspected and accepted on behalf of the Lessee and the Lessor on the date of such Certificate of Acceptance and is marked in accordance with Section 5 hereof, whereupon, except as provided in the next sentence hereof, such Unit shall be deemed to have been delivered to and accepted by the Lessee and shall be subject thereafter to all the terms and conditions of this Lease. The delivery, inspection and acceptance hereunder of any unit of Equipment excluded from the Security Documentation pursuant to the first paragraph of Article 4 thereof shall be null and void and ineffective to subject such unit to this Lease.

Section 3. Rentals. The Lessee agrees to pay to the Lessor, as rental for each Unit subject to this Lease, 61 consecutive quarterly payments payable on July 15, October 15, January 15, and April 15 of each

year commencing July 15, 1976. The rental payment payable on July 15, 1976, shall be in an amount equal to .0297228% of the Purchase Price (as defined in the Security Documentation) of each Unit then subject to this Lease for each day elapsed from the date such Unit is settled for under the Security Documentation to July 15, 1976. The next 60 rental payments shall each be in an amount equal to 2.67505% of the Purchase Price of each Unit then subject to this Lease.

If any of the quarterly rental payment dates referred to above is not a business day the quarterly rental payment otherwise payable on such date shall be payable on the next succeeding business day. The term "business day" as used herein means a calendar day, excluding Saturdays, Sundays and any other day on which banking institutions in Philadelphia, Pennsylvania, San Francisco, California, New York, New York, or Birmingham, Alabama, are authorized or obligated to remain closed.

The Lessor irrevocably instructs the Lessee to make all the payments provided for in this Lease, including, but not limited to, the payments provided for in this Section 3 and in Section 7 hereof, at the principal office of the Vendor, for the account of the Lessor in care of the Vendor, with instructions to the Vendor first, to apply such payments to satisfy the obligations of the Lessor under the Security Documentation, and second, so long as no event of default or event which with the lapse of time and/or demand provided for in the Security Documentation could constitute an event of default under the Security Documentation shall have occurred and be continuing, to pay any balance promptly to the Lessor at such place as the Lessor shall specify in writing. The Lessee agrees to make each payment provided for herein as contemplated by this paragraph in Federal or other funds immediately available to the Vendor by 11:00 A.M., local time, on the date such payment is due.

Section 4. Term of Lease. The term of this Lease as to each Unit shall begin on the date of delivery and acceptance of such Unit hereunder and, subject to the provisions of Sections 7, 10 and 13 hereof, shall terminate on the date on which the final payment of rent in respect thereof is due pursuant to Section 3 hereof. The obligations of the Lessee hereunder (including, but not limited to, the obligations under Section 6, 7 9 and 14 hereof) shall survive the expiration of the term of this Lease.

Section 5. Identification Marks. The Lessee will cause each Unit to be kept numbered with the road number set forth in Schedule A hereto, or in the case of any Unit not there listed, such road number as shall be set forth in any amendment or supplement hereto extending this Lease to cover such Unit, and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of each Unit, in letters not less than one inch in height, the words "Ownership subject to a Security Agreement Filed under the Interstate Commerce Act, Section 20c, with The Western Saving Fund Society of Philadelphia as Secured Party

and Assignee", "Owned by a Company under a Security Agreement Filed under the Interstate Commerce Act, Section 20c" or other appropriate words designated by the Vendor, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the Lessor's and Vendor's title to and interest in such Unit and the rights of the Lessor under this Lease and of the rights of the Vendor under the Security Documentation. The Lessee will not place any such Unit in operation or exercise any control or dominion over the same until such words shall have been so marked and will replace promptly any such markings which may be removed, defaced or destroyed. The Lessee will not change the road number of any Unit unless and until (i) a statement of new number or numbers to be substituted therefor shall have been filed with the Vendor and the Lessor and duly filed, recorded and deposited by the Lessee in all public offices where this Lease and the Security Documentation shall have been filed, recorded and deposited and (ii) the Lessee shall have furnished the Vendor and the Lessor an opinion of counsel to such effect. The Units may be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates or sublessees on railroad equipment used by them of the same or similar type for convenience of identification of the rights thereof to use the Equipment as permitted by law.

Except as provided in the immediately preceding paragraph, the Lessee will not allow the name of any person, association or corporation to be placed on any Unit as a designation that might be interpreted as a claim of ownership.

In the event of any assignment or successive assignments by the Vendor of security title to the Equipment and of the Vendor's rights under the Security Documentation with respect thereto, the Lessee will, whenever requested by said assignee, change the markings on each side of each unit of the Equipment so as to indicate the security title of such assignee to the Equipment such markings to be specified by such assignee, subject to any requirements of the laws of the jurisdictions in which the Equipment shall be operated. The cost of such markings in the event of an assignment of not less than all the Equipment at the time covered by this Lease shall be borne by the Lessee and, in the event of any assignment of less than all such Equipment, such cost shall be borne by such assignee.

Section 6. Taxes. All payments to be made by the Lessee hereunder will be free of net expense (after giving effect to Federal, state and local income tax benefits accruing to the Lessor and the Beneficiary) to the Lessor for collection or other charges and will be free of net expense (after giving effect to Federal, state and local income tax benefits accruing to the Lessor and the Beneficiary) to the Lessor with respect to the amount of any local, state, federal, or foreign taxes (other than any United States Federal income tax payable by the Beneficiary in consequence of the receipt of payments provided for herein and

other than the aggregate of all state or local taxes measured by net income based on such receipts, up to the amount of any such taxes based on such receipts which would be payable to the state and locality in which the Beneficiary has its principal place of business without apportionment to any other state, except any such tax which is in substitution for or relieves the Lessee from the payment of taxes which it would otherwise be obligated to pay or reimburse as herein provided) or license fees, assessments, charges, fines or penalties (all such expenses, taxes, license fees, assessments, charges, fines and penalties being hereinafter called impositions) hereafter levied or imposed upon or in connection with or measured by this Lease or any sale, rental, use, payment, shipment, delivery or transfer of title under the terms hereof or the Security Documentation, all of which impositions the Lessee assumes and agrees to pay on demand in addition to the payments to be made by it provided for herein. The Lessee will also pay promptly all impositions which may be imposed upon any Unit or for the use or operation thereof (except as provided above) or upon the earnings arising therefrom (except as provided above) or upon the Lessor solely by reason of its ownership thereof and will keep at all times all and every part of such Unit free and clear of all impositions which might in any way affect the title of the Lessor or the interest of the Beneficiary or the Vendor or result in a lien upon any such Unit; provided, however, that the Lessee shall be under no obligation to pay any impositions of any kind so long as it is contesting in good faith and by appropriate legal or administrative proceedings such impositions and the nonpayment thereof does not, in the reasonable opinion of the Lessor and the Beneficiary, adversely affect the title, property or rights of the Lessor or the Beneficiary hereunder or the Vendor under the Security Documentation. The Lessee agrees to give the Lessor and the Beneficiary notice of such contest within 30 days after institution thereof and the Lessor agrees to provide such information as may be reasonably requested by the Lessee in furtherance of such contest. If any impositions shall have been charged or levied against the Lessor or the Beneficiary directly and paid by the Lessor or the Beneficiary, the Lessee shall reimburse the Lessor or the Beneficiary on presentation of an invoice therefor; provided, however, that the Lessor or the Beneficiary shall have given the Lessee written notice of such imposition prior to such payment.

In the event that the Lessor shall become obligated to make any payment to the Builder or the Vendor or otherwise pursuant to any correlative provision of the Security Documentation not covered by the foregoing paragraph of this Section 6, the Lessee shall pay such additional amounts (which shall also be deemed impositions hereunder) to the Lessor as will enable the Lessor to fulfill completely its obligations pursuant to said provision.

In the event any returns, statements or reports with respect to impositions are required to be made, the Lessee will make such returns, statements and reports in such manner as to show the interest of the Lessor, the Beneficiary and the Vendor in such Units; provided, however, that

the Lessor and, if applicable, the Beneficiary shall, with respect to any state or political subdivision thereof of the United States of America, file required returns, statements, and reports relating to sales or use taxes, and taxes, fees, and charges on or measured by Lessor's earnings or gross receipts arising from the Units, or the value added by the Lessor thereto, and remit the amount thereof and the Lessee shall reimburse the Lessor or the Beneficiary promptly upon demand for the amount of such taxes, fees and charges except as provided above.

In the event that, during the continuance of this Lease, the Lessee becomes liable for the payment or reimbursement of any imposition, pursuant to this Section 6, such liability shall continue, notwithstanding the expiration of this Lease, until all such impositions are paid or reimbursed by the Lessee.

To the extent the Lessee may be prohibited by law from performing in its own name the duties required by this Section 6, the Lessor and the Beneficiary hereby authorize the Lessee to act in their names and on their behalf; provided, however, that the Lessee shall indemnify and hold the Lessor and the Beneficiary harmless from and against any and all claims, costs, expenses, damages, losses and liabilities incurred in connection therewith as a result of, or incident to, any action by the Lessee pursuant to this authorization.

The Lessee shall, whenever reasonably requested by the Lessor or the Beneficiary, submit to the Lessor copies of returns, statements, reports, billings and remittances, or furnish other evidence satisfactory to the Lessor and the Beneficiary of the Lessee's performance of its duties under this Section 6. The Lessee shall also furnish promptly upon request such data as the Lessor or the Beneficiary reasonably may require to permit the Lessor's and the Beneficiary's compliance with the requirements of taxing jurisdictions.

Section 7. Maintenance, Casualty Occurrences; Insurance.
The Lessee agrees that, at its own cost and expense, it will be responsible for ordinary maintenance and repairs required to maintain and keep each Unit which is subject to this Lease in good operating order, repair and condition.

In the event that any Unit shall be or become worn out, lost, stolen, destroyed, or irreparably damaged, from any cause whatsoever, returned to the Builder pursuant to the patent indemnity provisions of the Security Documentation, or taken or requisitioned by condemnation or otherwise resulting in loss of possession by the Lessee for a period of 90 consecutive days, except requisition for use by the United States Government (such occurrences being hereinafter called Casualty Occurrences), prior to the return of such Unit in the manner set forth in Section 14 hereof, the Lessee shall promptly and fully notify the Lessor and the Vendor with respect thereto. On the rental payment date next

succeeding such notice the Lessee shall pay to the Lessor an amount equal to the rental payment or payments in respect of such Unit due and payable on such date plus a sum equal to the Casualty Value (as hereinafter defined) of such Unit as of the date of such payment in accordance with the schedule referred to below. Upon the making of such payment by the Lessee in respect of any Unit, the rental for such Unit shall cease to accrue, the term of this Lease as to such Unit shall terminate and (except in the case of the loss, theft, complete destruction or return to the Builder of such Unit) the Lessor shall be entitled to recover possession of such Unit. The Lessor hereby appoints the Lessee its agent to dispose of any Unit suffering a Casualty Occurrence or any component thereof, at the best price obtainable on an "as is, where is" basis. Provided that the Lessee has previously paid the Casualty Value to the Lessor, the Lessee shall be entitled to the proceeds of such sale to the extent they do not exceed the Casualty Value of such Unit, and shall pay any excess to the Lessor. The Lessee shall be entitled to credit against the Casualty Value payable in respect of any Unit returned to the Builder pursuant to the patent indemnity provisions of the Security Documentation in an amount equal to any payment made by the Builder to the Lessor in respect thereof under the Security Documentation.

The Casualty Value of each Unit as of the payment date on which payment is to be made as aforesaid shall be that percentage of the Purchase Price of such Unit as is set forth in the Schedule in Item 1 of Schedule B hereto opposite such date.

The aforesaid percentages have been computed without regard to recapture of the Investment Credit (as defined in Section 16 hereof). Consequently, the Casualty Value of any Unit suffering a Casualty Occurrence during the period preceding the third, fifth or seventh anniversary of the date of delivery and acceptance of such Unit shall be increased by the applicable percentage of the Purchase Price set forth in Item 2 of Schedule B hereto and such additional amounts, if any, shall be included within the meaning of the term "Casualty Value" as used herein. In the event there is a change in section 38 and related sections of the Code, as defined in Section 16 hereof, during the term of this Lease adjusting the amount of recapture of investment credit, said percentages will be adjusted accordingly.

Whenever any Unit shall suffer a Casualty Occurrence after termination of this Lease and before such Unit shall have been returned in the manner provided in Section 14 hereof, the Lessee shall promptly and fully notify the Lessor with respect thereto and pay to the Lessor an amount equal to the Casualty Value of such Unit, which shall be an amount equal to 20% of the Purchase Price of such Unit. Upon the making of any such payment by the Lessee in respect of any Unit (except in the case of the loss, theft or complete destruction of such Unit), the Lessor shall be entitled to recover possession of such Unit. The Lessor hereby appoints the Lessee its agent to dispose of any Unit suffering a Casualty

Occurrence or any component thereof, at the best price obtainable on an "as is, where is" basis. Provided that the Lessee has previously paid the Casualty Value to the Lessor, the Lessee shall be entitled to the proceeds of such sale to the extent they do not exceed the Casualty Value of such Unit, and shall pay any excess to the Lessor.

In the event of the requisition for use by the United States Government (hereinafter called the Government) of any Unit during the term of this Lease or any renewal thereof all of the Lessee's obligations under this Lease with respect to such Unit shall continue to the same extent as if such requisition had not occurred, except that if such Unit is returned by the Government at any time after the end of the term of this Lease or any renewal thereof, the Lessee shall be obligated to return such Unit to the Lessor pursuant to Section 11 or 14 hereof, as the case may be, promptly upon such return by the Government rather than at the end of the term of this Lease or any renewal thereof, but the Lessee shall in all other respects comply with the provisions of said Section 11 or 14, as the case may be, with respect to such Unit. All payments received by the Lessor, the Beneficiary, or the Lessee from the Government for the use of such Unit during the term of this Lease or any renewal thereof shall be paid over to, or retained by, the Lessee provided no Event of Default (or other event which after notice or lapse of time or both would become an Event of Default) shall have occurred and be continuing; and all payments received by the Lessor, the Beneficiary or the Lessee from the Government for the use of such Unit after the term of this Lease or any renewal thereof, shall be paid over to, or retained by, the Lessor or the Beneficiary.

Except as hereinabove in this Section 7 provided, the Lessee shall not be released from its obligations hereunder in the event of, and shall bear the risk of, any Casualty Occurrence to any Unit from and after delivery and acceptance thereof by the Lessee hereunder.

The Lessee will, or will cause its sublessee or sublessees to, maintain, at their sole cost and expense, at all times during the term of this Lease and any renewals thereof (and thereafter during the first two-month period in which the Units are being assembled and delivered to the locations specified in Section 14 hereof), with reputable insurers acceptable to the Lessor and, so long as any portion of the Conditional Sale Indebtedness under the Security Documentation shall remain outstanding, acceptable to the Vendor, insurance in an amount not less than \$300,000 per occurrence, insuring against loss and destruction of, and damage to, such Unit arising out of fire, windstorm, explosion, and all other hazards and risks ordinarily subject to extended coverage insurance, and against such other hazards and risks as are customarily insured against by companies owning or leasing property of a similar character and engaged in a business similar to that engaged in by Lessee, or, as the case may be, its sublessees, with a deductible amount not in excess of \$1,000 per Unit. All such insurance policies shall (i) name the Lessor

and the Vendor as additional insureds, with losses to be payable to the Lessor, the Vendor, the Lessee, and, as the case may be, Lessee's sublessees as their respective interests may appear, (ii) provide that the policies will not be invalidated as against the Lessor or the Vendor because of any violation of a condition or warranty of the policy or application therefor by the Lessee or any sublessee of the Lessee, (iii) provide that the policies may be materially altered or cancelled by the insurer only after 30 days prior written notice to the Lessor and the Vendor and (iv) provide that the policies shall be prepaid a minimum of 90 days. The Lessee shall deliver or cause to be delivered to the Lessor and the Vendor, prior to the commencement of the lease term for any Unit (or at such other time or times as the Lessor may request) a certificate or other evidence of the maintenance of all such insurance satisfactory to the Lessor and the Vendor; provided, however, that the Lessor and the Vendor shall be under no duty to examine such certificate or other evidence of insurance, or to advise the Lessee or any sublessee of the Lessee in the event that its insurance is not in compliance with this Lease. In the event of failure on the part of the Lessee to provide and furnish any of the aforesaid insurance, the Lessor or the Vendor, upon notice to the Lessee, may procure such insurance and the Lessee shall, upon demand, reimburse the Lessor and the Vendor, or cause the Lessor and the Vendor to be reimbursed, for all expenditures made by the Lessor or the Vendor for such insurance, together with interest thereon computed at the maximum rate of interest permitted by law, but not more than 12% per annum, from the date of the Lessor's or the Vendor's payment until so reimbursed. The insurance policies shall also provide that upon receipt by the insurer from the Lessor or the Vendor of any written notice of the occurrence of an Event of Default hereunder, any proceeds payable by said insurer with respect to any loss or destruction of, or damage to, any Unit, shall be payable solely to the Vendor (or the Lessor after payment of all outstanding Conditional Sale Indebtedness) from the date of said insurer's receipt of such written notice, up to the date said insurer receives written notice from the Vendor or the Lessor that said Event of Default is no longer continuing hereunder.

The Lessee will, or will cause its sublessee or sublessees to, procure and maintain at its expense during the term of this Lease (and any renewals thereof) with insurers satisfactory to the Lessor and the Vendor bodily injury and third party property damage insurance for each Unit with liability limits not less than \$5 million per occurrence; provided, however, that the Lessee will use reasonable efforts to increase the limits of such insurance to \$20 million per occurrence, and provided further that if the net worth of the Guarantor shall fall below \$50 million, Lessee shall increase the limits of such insurance to \$20 million per occurrence. The policies for such insurance shall (i) name the Lessor and the Vendor as additional insureds, as their respective interests may appear, (ii) provide that if the insurers cancel such insurance for any reason whatsoever, or the same is allowed to lapse for non-payment of premium, such cancellation or lapse shall not be effective as to the Lessor or the Vendor for 30 days after receipt by the Lessor and the Vendor of written notice by the insurers of such cancellation or lapse, (iii) provide for at least 30 days prior written notice to the Lessor and the Vendor of any alteration in the terms of such policy

adverse to the respective interests of the Lessor or the Vendor, (iv) provide that in respect of the interests of the Lessor or the Vendor in such policies, the insurance shall not be invalidated by any action or inaction of the Lessee, or any sublessee of the Lessee, or any other person (other than the Lessor or the Vendor), and all shall insure the Lessor's and the Vendor's interests as they appear regardless of any breach or violation by the Lessee or any sublessee of the Lessee of any warranties, declarations or conditions contained in such policies and (v) expressly by endorsement cover any contractual liability of the Lessee under this Lease.

From time to time upon the expiration date of each policy of such insurance, the Lessee shall furnish or cause to be furnished to the Lessor and the Vendor a certificate signed by a firm of independent insurance brokers, appointed by the Lessee or, as the case may be, a sublessee of the Lessee, and not objected to by the Lessor or the Vendor, showing the insurance then maintained pursuant to this Section 7 with respect to the Units (and the expiration date of each policy of such insurance) and stating the opinion of said firm that the insurance then carried and maintained on or with respect to the Units complies with the terms hereof. In the event that the Lessee shall fail to maintain or cause to be maintained insurance as herein provided, the Lessor, upon notice to the Lessee, may at its option provide such insurance and, in such event, the Lessee shall, upon demand, reimburse the Lessor, or cause the Lessor to be reimbursed, for the cost thereof, together with interest thereon at the rate of 12% per annum.

If the Lessor shall receive any insurance proceeds or condemnation payments in respect of a Unit suffering a Casualty Occurrence, which proceeds and payments are hereby assigned to the Lessor, the Lessor shall, subject to the Lessee having made payment of the Casualty Value in respect of such Unit, pay such proceeds or condemnation payments to the Lessee up to an amount equal to the Casualty Value with respect to a Unit paid by the Lessee and any balance of such proceeds or condemnation payments shall remain the property of the Lessor; if such Casualty Value is not paid on the required date, the Lessor may apply said insurance proceeds or condemnation payment to the amount of such Casualty Value payment due. All insurance proceeds received by the Lessor in respect of any Unit not suffering a Casualty Occurrence shall be paid to the Lessee upon proof satisfactory to the Lessor that any damage to such Unit in respect of which such proceeds were paid has been fully repaired.

Section 8. Reports. On or before March 31 in each year, commencing with the calendar year 1977, the Lessee will furnish to the Lessor and the Vendor an accurate statement (a) setting forth as of the preceding December 31 the amount, description and numbers of all Units then leased hereunder and covered by the Security Documentation, the amount, description and numbers of all Units that have suffered a Casualty Occurrence during the preceding calendar year or are then undergoing

performance of any Units or any risks relating thereto; (iii) any interruption of service, loss of business or anticipated profits or consequential damages; or (iv) the delivery, operation, servicing, maintenance, repair, improvement or replacement of any Units. The Lessee's delivery of a Certificate of Acceptance shall be conclusive evidence as between the Lessee and the Lessor that the Units described therein are in all the foregoing respects satisfactory to the Lessee, and the Lessee will not assert any claim of any nature whatsoever against the Lessor based on any of the foregoing matters.

The Lessee agrees, for the benefit of the Lessor and the Vendor, to comply in all respects (including without limitation, with respect to the use, maintenance and operation of each Unit) with all applicable laws of the jurisdictions in which its operations involving the Units may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Units, to the extent that such laws and rules affect the title, operation or use of the Units, and in the event that prior to the expiration of this Lease or any renewal thereof such laws or rules require any alteration, replacement, addition, or modification of or to any part of any Unit, the Lessee will conform therewith at its own expense; provided, however, that the Lessee may at its own expense, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Lessor or the Vendor, adversely affect the property or rights of the Lessor or the Vendor under this Lease or under the Security Documentation. The Lessee, at its own cost and expense, may furnish additions, modifications and improvements to the Units during the term of this Lease provided that such additions, modifications and improvements are readily removable without causing material damage to the Units. The additions, modifications and improvements made by the Lessee under the preceding sentence shall be owned by the Lessee, except to the extent such additions, modifications or improvements are made in order to comply with the first sentence of this paragraph.

Any and all parts installed on and additions and replacements made to any Unit (i) which are not readily removable without causing material damage to such Unit, (ii) the cost of which is included in the Purchase Price of such Unit or (iii) which are required for the operation or use of such Unit by the Interstate Commerce Commission, the Department of Transportation or any other applicable regulatory body, shall constitute accessions to such Unit and full ownership thereof free from any lien, charge, security interest or encumbrance (except for those created by the Security Documentation) shall immediately be vested in the Lessor and the Vendor as their respective interests appear in the Unit itself.

The Lessee agrees to indemnify, protect and hold harmless the Lessor, the Beneficiary and the Vendor from and against all losses,

damages, injuries, liabilities, claims and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including, but not limited to, counsel fees and expenses, patent liabilities, penalties and interest, arising out of or as the result of the entering into or the performance of or the occurrence of a default, an event of default or an Event of Default under the Security Documentation, the Participation Agreement or this Lease, the ownership of any Unit, the ordering, acquisition, use, operation, condition, purchase, delivery, rejection, storage or return of any Unit or any accident in connection with the operation, use, condition, possession, storage or return of any Unit resulting in damage to property or injury or death to any person, whether as the result of the negligence of any of said parties, the application of the law of strict liability, or otherwise, except as otherwise provided in Section 14 of this Lease or the transfer of title to the Equipment by the Vendor pursuant to any provision of the Security Documentation. The indemnities arising under this paragraph shall continue in full force and effect notwithstanding the full payment of all obligations under this Lease or the expiration or termination of the term of this Lease.

The Lessee agrees to prepare and deliver to the Lessor within a reasonable time prior to the required date of filing (or, to the extent permissible, file on behalf of the Lessor) any and all reports (other than tax returns) to be filed by the Lessor with any federal, state or other regulatory authority by reason of the ownership by the Lessor or the Vendor of the Units or the leasing thereof to the Lessee.

Section 10. Default. If, during the continuance of this Lease, one or more of the following events (each such event being herein sometimes called an Event of Default) shall occur:

A. default shall be made in payment of any amount provided for in Section 3, 7 or 13 hereof, and such default shall continue for ten business days;

B. the Lessee shall make or permit any unauthorized assignment or transfer of this Lease, or any interest herein, or of the right to possession of the Units, or any thereof;

C. the insurance to be maintained pursuant to Section 7 hereof shall for any reason not remain in full force and effect as therein provided, unless comparable substitute insurance satisfactory to the Lessor and the Vendor shall be in force;

D. any representation or warranty made by the Lessee herein or in any document or certificate delivered by the Lessee in connection herewith shall prove to be incorrect at any time in any material respect;

E. default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part

of the Lessee contained herein or in the Participation Agreement, and such default shall continue for 30 days after written notice from the Lessor or the Vendor to the Lessee specifying the default and demanding that the same be remedied;

F. any proceeding shall be commenced by or against the Lessee or the Guarantor for any relief which includes, or might result in, any modification of the obligations of the Lessee hereunder or of the Guarantor under the Guaranty Agreement, under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustments of the obligations of the Lessee hereunder), and, unless such proceeding shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under this Lease or the Guarantor under the Guaranty Agreement shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed (whether or not subject to ratification) for the Lessee or the Guarantor or for the property of the Lessee or the Guarantor in connection with any such proceeding in such manner that such obligations shall have the same status as obligations incurred by such a trustee or trustees or receiver or receivers, within 30 days after such appointment, if any, or 30 days after such proceeding shall have been commenced, whichever shall be earlier;

G. an event of default set forth in Article 15 of the Security Documentation shall have occurred arising out of any default by the Lessee in performing any of its obligations hereunder;

H. a Reportable Event, as defined in Section 2 of the Participation Agreement, which could adversely and materially affect the ability of the Lessee to perform hereunder shall have occurred and the Lessor shall have declared not less than ten days after the reporting of such Reportable Event to the Lessor, that as a result of such occurrence an Event of Default exists;

I. the Guarantor shall be in default under the Guaranty Agreement or fail to perform thereunder;

then, in any such case, the Lessor, at its option, may:

(a) proceed by appropriate court action or actions either at law or in equity, to enforce performance by the Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof including net after-tax losses of federal and state income tax benefits to which the Lessor would otherwise be entitled under this Lease; or

(b) by notice in writing to the Lessee terminate this Lease, whereupon all rights of the Lessee to the use of the Units shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as herein provided; and thereupon the

Lessor may by its agents enter upon the premises of the Lessee or other premises where any of the Units may be and take possession of all or any of such Units and thenceforth hold, possess, sell, operate, lease to others and enjoy the same free from any right of the Lessee, or its successors or assigns, to use the Units for any purposes whatever and without any duty to account to the Lessee for such action or inaction or for any proceeds arising therefrom; but the Lessor shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessee as damages for loss of the bargain and not as a penalty, whichever of the following amounts the Lessor, in its sole discretion, shall specify: (x) a sum, with respect to each Unit, equal to (A) the excess of the present value, at the time of such termination, of the entire unpaid balance of all rental for such Unit which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease as to such Unit over the then present value of the rental which the Lessor reasonably estimates to be obtainable for the Unit during such period, such present value to be computed in each case on the basis of a 7% per annum discount, compounded quarterly from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated plus (B) an amount which, after deduction of all taxes required to be paid by the Beneficiary in respect of the receipt thereof under the laws of any Federal, state or local government or taxing authority of the United States of America or under the laws of any taxing authority or governmental subdivision of a foreign country, shall, in the reasonable opinion of the Beneficiary, be equal to all or such portion of the Investment Credit (as defined in Section 16 hereof) lost, not claimed, not available for claim, disallowed or recaptured by or from the Beneficiary as a direct or indirect result of the breach of one or more of the representations, warranties and covenants made by the Lessee in Section 16 or any other provision of this Lease or the sale or other disposition of the Lessor's interest in any Unit after the occurrence of an Event of Default, plus such sum as shall cause the Beneficiary's net return under this Lease to be equal to the net return that would have been available to the Beneficiary if it had been entitled to utilization of all or such portion of the ADR Deduction and the Interest Deduction (as such deductions are defined in Section 16 hereof) which were lost, not claimed, not available for claim or disallowed or recaptured in respect of a Unit as a direct or indirect result of the breach of one or more of the representations, warranties and covenants made by the Lessee in Section 16 or any other provision of this Lease, the inaccuracy of any statement in any letter or document furnished to the Lessor by the Lessee, the termination of this Lease, the Lessee's loss of the right to use such Unit, any action or inaction by the Lessee or the sale or other disposition of the Lessor's interest in such Unit after the occurrence

of an Event of Default plus such sum as will pay or reimburse the Beneficiary for any interest, penalties or additions to tax incurred in connection with such loss, failure to claim, inability to claim, disallowance or recapture; or (y) an amount equal to the excess, if any, of the Casualty Value as of the rental payment date on or next preceding the date of termination over the amount the Lessor reasonably estimates to be the sales value of such Unit as such time; provided, however, that in the event the Lessor shall have sold any Unit, the Lessor, in lieu of collecting any amounts payable to the Lessor by the Lessee pursuant to the preceding clauses (x) and (y) of this part (B) with respect to such Unit, may, if it shall so elect, demand that the Lessee pay the Lessor and the Lessee shall pay to the Lessor on the date of such sale, as liquidated damages for loss of a bargain and not as a penalty, an amount equal to the excess, if any, of the Casualty Value for such Unit, as of the rental payment date on or next preceding the date of termination over the net proceeds of such sale.

In addition, the Lessee shall be liable, except as otherwise provided above, for any and all unpaid amounts due hereunder before, during or after the exercise of any of the foregoing remedies and for all reasonable attorneys' fees and other costs and expenses incurred by reason of the occurrence of any Event of Default or the exercise of the Lessor's remedies with respect thereto, including all costs and expenses incurred in connection with the return of any Unit.

The remedies in this Lease provided in favor of the Lessor shall not be deemed exclusive, but shall be cumulative and may be exercised concurrently or consecutively, and shall be in addition to all other remedies in its favor existing at law or in equity. The Lessee hereby waives any mandatory requirements of law, now or hereafter in effect, which might limit or modify the remedies herein provided, to the extent that such waiver is not, at the time in question, prohibited by law. The Lessee hereby waives any and all existing or future claims to any offset against the rental payments due hereunder, and agrees to make such payments regardless of any offset or claim which may be asserted by the Lessee or on its behalf.

The failure of the Lessor to exercise the rights granted it hereunder upon the occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies.

Section 11. Return of Units Upon Default. If this Lease shall terminate pursuant to Section 10 hereof, the Lessee shall forthwith deliver possession of the Units to the Lessor. Each Unit so delivered shall be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear excepted. For the purpose of delivering possession of any Unit or Units to the Lessor as above required, the Lessee shall at its own cost, expense and risk:

(a) forthwith and in the usual manner (including, but not by way of limitation, giving prompt telegraphic and written notice to the Association of American Railroads and all railroads to which any Unit or Units have been interchanged to return the Unit or Units so interchanged) place such Units upon such storage tracks as the Lessor reasonably may designate;

(b) permit the Lessor to store such Units on such tracks at the risk of the Lessee without charge for insurance, rent or storage until such Units have been sold, leased or otherwise disposed of by the Lessor; and

(c) transport the same to any place on such tracks as the Lessor reasonably may determine or to any connecting carrier for shipment, all as directed by the Lessor.

The assembling, delivery, storage, insurance and transporting of the Units as hereinbefore provided shall be at the expense and risk of the Lessee and are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Units. During any storage period, the Lessee will, at its own cost and expense, maintain and keep the Equipment in good order and repair and will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any such Unit, to inspect the same. In the event any Unit is not assembled, delivered and stored, as hereinabove provided, within 60 days after such termination, the Lessee shall pay to the Lessor for each day thereafter an amount equal to .0594456% of the Purchase Price of such Unit.

Without in any way limiting the obligation of the Lessee under the foregoing provisions of this Section 11, the Lessee hereby irrevocably appoints the Lessor as the agent and attorney of the Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of any Unit to the Lessor, to demand and take possession of such Unit in the name and on behalf of the Lessee from whomsoever shall be in possession of such Unit at the time. Lessee waives any and all rights to notice and to a hearing with respect to the right of repossession of the Units by the Lessor upon an Event of Default.

Section 12. Assignment; Possession and Use. This Lease shall be assignable in whole or in part by the Lessor without the consent of the Lessee, but the Lessee shall be under no obligation to any assignee of the Lessor except upon written notice of such assignment from the Lessor. All the rights of the Lessor hereunder (including, but not limited to, the rights under Sections 6, 7, 9 and 10 and the rights to receive the rentals payable under this Lease) shall inure to the benefit of the Beneficiary's and the Lessor's assigns (including the Vendor).

So long as the Lessee shall not be in default under this Lease, the Lessee shall be entitled to the possession, use and quiet enjoyment of the Units in accordance with the terms of this Lease, and may sublease the Units to others, provided, however, that the rights of any such sublessee shall be subject and subordinate to, and any such sublease shall be made expressly subject and subordinate to, all the terms of this Lease and shall include appropriate provisions for the maintenance of any Units subleased thereby, for insuring the Units subleased against total loss or constructive total loss in amounts and against risks customarily insured against by railroad companies on similar equipment, and for the avoidance of such sublease or use of any Units thereunder if the same would result in the Beneficiary losing any portion of the Investment Credit or the ADR Deduction or the Interest Deduction (as defined in Section 16 hereof) which would otherwise be available to the Beneficiary; provided further that on or before transferring possession of any Unit to such sublessee, said sublease shall have been filed with the Registrar General of Canada pursuant to Section 86 of the Railway Act of Canada. The Lessee agrees not to use or permit the use at any one time of Units having an aggregate Purchase Price in excess of 10% of the aggregate Purchase Price of all the then existing Units in any jurisdiction in which the security title of the Vendor or the title of the Lessor has not been effectively protected. No sublease of any Units shall in any way discharge or diminish any of the Lessee's obligations to the Lessor or Beneficiary hereunder. The Lessee may receive and retain compensation for such use of any of the Units by other railroads in accordance with this paragraph.

The Lessee shall use or cause the use of the Units only in the United States, except that the Lessee may from time to time use or cause to be used in Canada any Units, provided that the Lessee shall not use any Unit or cause, permit, or otherwise allow any Unit to be used in service involving the regular operation and maintenance thereof outside the United States of America. The Lessee, at its own expense, will promptly pay or discharge any and all sums claimed by any party which, if unpaid, might become a lien, charge, security interest or other encumbrance (other than an encumbrance created by the Lessor, the Beneficiary or the Vendor or resulting from claims against the Lessor, the Beneficiary or the Vendor not related to the ownership of the Units) upon or with respect to any Unit or the interest of the Lessor, the Beneficiary, or the Vendor therein, and will promptly discharge any such lien, claim, security interest or other encumbrance which arises. The Lessee shall not, without the prior written consent of the Lessor, part with the possession or control, any of the Units, except to the extent permitted by the provisions of this Section 12.

The rights of the Lessee under this Lease may not be assigned by the Lessee, except that with the prior written consent of the Lessor Lessee may assign any or all of its rights in the Lease to a third party of reliable standing in the financial community which shall have assumed Lessee's obligations hereunder. Neither the foregoing nor any other provision of this Section 12 shall be deemed to restrict the right of the Lessee to assign or transfer its leasehold interest under this Lease

in the Units or possession of the Units to any railroad corporation incorporated under the laws of any state of the United States of America or the District of Columbia (which shall have duly assumed the obligations of the Lessee hereunder and under the Participation Agreement and the Consent (as defined in the Security Documentation)) into or with which the Lessee shall have become merged or consolidated or which shall have acquired the property of the Lessee as an entirety or substantially as an entirety, provided that such assignee or transferee will not, upon the effectiveness of such merger, consolidation or acquisition, be in default under any provision of this Lease and is financially reliable.

Section 13. Renewal Option; Right of First Refusal. Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, the Lessee may by written notice delivered to the Lessor not less than 120 days prior to the end of the original term or any extended term of this Lease, as the case may be, elect to extend the term of this Lease in respect of no fewer than the number of Units then under a sublessee by the Lessee to a third-party sublessee, for additional two-year periods commencing on the scheduled expiration of the original term or any extended term of this Lease, as the case may be, provided that no such extended term extends beyond July 15, 1999, at a "Fair Market Rental" payable in quarterly payments on October 15, January 15, April 15, and July 15 in each year of such extended term.

Fair Market Rental shall be determined on the basis of, and shall be equal in amount to, the rental which would obtain in an arm's-length transaction between an informed and willing lessee (other than a lessee currently in possession) and an informed and willing lessor under no compulsion to lease and, in such determination, costs of removal from the location of current use shall not be a deduction from such rental. If, after 20 days from the giving of notice by the Lessee of the Lessee's election to extend the term of this Lease, the Lessor and the Lessee are unable to agree upon a determination of the Fair Market Rental of the Units, such rental shall be determined in accordance with the foregoing definition by the following procedure: If either party to such determination shall have given written notice to the other requesting determination of such value by this appraisal procedure, the parties shall consult for the purpose of appointing a qualified independent appraiser by mutual agreement. If no such appraiser is so appointed within 10 business days after such notice is given, each party shall appoint an independent appraiser within 10 business days after such notice is given, and the two appraisers so appointed shall within 10 business days after such notice is given appoint a third independent appraiser. If no such third appraiser is appointed within 10 business days after such notice is given, either party may apply, to make such appointment, to the American Arbitration Association, and both parties shall be bound by any appointment so made. Any appraiser or appraisers appointed pursuant to the foregoing procedure shall be instructed to determine the Fair Market Rental of the Units subject to the proposed extended term within 30 days after his or their appointment. If the parties shall have appointed a single appraiser or if either party shall have failed to appoint an appraiser, the determination of Fair Market Rental of the single appraiser appointed shall

be final. If three appraisers shall be appointed, the determination of the appraiser which differs most from the other two appraisers shall be excluded, the remaining two determinations shall be averaged and such latter average shall be final and binding upon the parties hereto as the Fair Market Rental. The appraisal proceedings shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association as in effect on the date hereof, except as modified hereby. The provision for this appraisal procedure shall be the exclusive means of determining Fair Market Rental and shall be in lieu of any judicial or other procedure for the determination thereof, and each party hereto hereby consents and agrees not to assert any judicial or other procedures. The expenses of the appraisal procedure shall be borne equally by the Lessee and the Lessor.

The Lessor agrees that (provided no default hereunder shall have occurred and be continuing) it will not sell such Units, or any of them, unless the Lessor shall have given the Lessee at least 30 business days' prior written notice of such sale, specifying the sale price and terms of such sale, and the Lessee shall have had the opportunity to purchase such Unit or Units at the same price and on the same terms as specified in such notice, but in no event shall the price hereunder be less than the then fair market value. The foregoing right of the Lessee shall expire 180 days after the termination of this Lease and all renewals thereof.

Upon payment of the purchase price of any Unit, the Lessor shall upon request of the Lessee execute and deliver to the Lessee, or to the Lessee's assignee or nominee, a bill of sale (without warranties) for such Unit such as will transfer to the Lessee such title to such Unit as the Lessor derived from the Vendor, free and clear of all liens, security interests and other encumbrances arising through the Lessor.

Section 14. Return of Units upon Expiration of Term. The Lessor intends to retain the Units for re-lease at the expiration of the term of this Lease. As soon as practicable on or after the expiration of the original or extended term of this Lease with respect to any Unit not purchased by the Lessee, the Lessee will, at its own cost and expense, at the request of the Lessor, deliver possession of such Unit to the Lessor upon such storage tracks as the Lessor may designate, or, in the absence of such designation as the Lessee may select, and permit the Lessor to store such Unit on such tracks for a period not exceeding two months, the storage of such Units to be at the expense and risk of the Lessee. During any such storage period the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser, lessee or user of such Unit, to inspect the same; provided, however, that the Lessee shall not be liable, except in the case of negligence of the Lessee or of its employees or agents, for any injury to, or the death of, any person exercising, either on behalf of the Lessor or any prospective purchaser, lessee or user, the rights of inspection granted under this sentence. Each Unit returned to the Lessor pursuant to this Section 14 shall (i) be in the same operating

order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear excepted, and (ii) meet the standards then in effect under the Interchange Rules of the Association of American Railroads and/or the applicable rules of any governmental agency or other organization with jurisdiction. The assembling, delivery, storage and transporting of the Units as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Units. In the event any Unit is not assembled, delivered and stored, as hereinabove provided, within 60 days after such termination, the Lessee shall pay to the Lessor for each day thereafter an amount equal to .0297228% of the Purchase Price of such Unit.

Section 15. Recording. The Lessee, at its own expense, will cause this Lease, the Security Documentation and any assignment hereof or thereof to be filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act. The Lessee will undertake the filing, registering, deposit, and recording required of the Lessor under the Security Documentation and will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, record (and will refile, reregister, deposit and redeposit or rerecord whenever required) any and all further instruments required by law or reasonably requested by the Lessor or the Vendor for the purpose of proper protection, to their satisfaction, of the Vendor's and the Lessor's respective interests in the Units, or for the purpose of carrying out the intention of this Lease, the Security Documentation and the assignment thereof to the Vendor; and the Lessee will promptly furnish to the Vendor and the Lessor evidence of all such filing, registering, depositing or recording, and an opinion or opinions of counsel for the Lessee with respect thereto satisfactory to the Vendor and the Lessor. This Lease and the Security Documentation shall be filed and recorded with the Interstate Commerce Commission prior to the delivery and acceptance hereunder of any Unit.

Section 16. Federal Income Taxes. The Beneficiary, as the beneficial owner of the Units, shall be entitled to such deductions, credits and other benefits as are provided by the Internal Revenue Code of 1954, as amended to the date hereof (herein called the Code), to an owner of property, including, without limitation, the maximum depreciation deduction with respect to the Units authorized under Section 167 of the Code based on the aggregate Purchase Price of the Units utilizing the 12-year depreciable life prescribed for the Units in the Asset Guideline Class No. 00.25 in accordance with Section 167(m) of the Code employing the double declining balance method of depreciation, switching to the sum-of-the-years-digits method when most beneficial to the Beneficiary utilizing the half-year or modified half-year convention as provided in Reg. Sec. 1.167(a)-11(c) (2)(iii) and taking into account an estimated

gross salvage value of 10% of the Purchase Price of the Units which will be reduced by 10% of the Purchase Price as provided in Section 167(f) of the Code (such deduction being herein called the ADR Deduction), deductions with respect to interest payable under the Security Documentation pursuant to Section 163 of the Code (such deduction being herein called the Interest Deduction), and the 10% investment credit in 1976 (herein called the Investment Credit) with respect to the aggregate Purchase Price of the Units pursuant to Section 38 and related sections of the Code.

The Lessee represents and warrants that at the time Beneficiary becomes the beneficial owner of any Unit, (i) such Unit will constitute "new Section 38 property" as defined in Section 48(b) of the Code, and at the time the Beneficiary becomes the beneficial owner of such Unit, no portion thereof shall have been used by any person so as to preclude the "original use of such property" within the meaning of Sections 48(b) and 167(c)(2) of the Code from commencing with the Beneficiary, and (ii) at all times during the term of this Lease, such Unit will constitute "Section 38 property" within the meaning of Section 48(a) of the Code, and will not be used predominantly outside the United States within the meaning of said Section 48(a) (including any exception thereto). Upon the Lessee's acceptance of any Unit, such Unit shall have an economically useful life of at least nineteen (19) years after the commencement of the term of this Lease and such Unit can reasonably be expected to have a fair market value at the end of the original term of this Lease of at least 20% of the Purchase Price of such Unit. If the Beneficiary shall (except as herein below provided) fail to have the right to claim or shall lose the right to claim or shall suffer a disallowance of or shall be required to recapture or shall be disallowed the full use of the Investment Credit, the ADR Deduction (without regard to the applicable gross salvage value), or the Interest Deduction, except for any inability to obtain or to have the right to claim such Investment Credit or ADR Deduction or Interest Deduction for any Unit because of the occurrence of any of the following events:

(a) A Casualty Occurrence shall occur with respect to such Unit, whereby the Lessee is required by the terms hereof to pay, and shall pay in full, the appropriate Casualty Value, provided, however, that the indemnities set forth in this Section 16 shall continue in effect, notwithstanding such payment of Casualty Value, with respect to the period prior to the date of payment of said Casualty Value;

(b) At any time while such Unit is leased hereunder, and while no Event of Default under this Lease has occurred and is continuing unremedied (without the written consent of the Lessee), the Lessor or the Beneficiary shall voluntarily or (except in a case constituting a Casualty Occurrence) involuntarily transfer its interest to such Unit to anyone or shall otherwise dispose of any interest in the Unit or shall reduce its interest in the profits from the

Unit, and such transfer, disposal or reduction by the Lessor or the Beneficiary shall be the cause of the Lessor or the Beneficiary's inability to obtain or to have the right to claim or of the disallowance of such Investment Credit, or ADR Deduction or Interest Deduction;

(c) The Beneficiary shall fail to claim the Investment Credit or the ADR Deduction or the Interest Deduction in its income tax returns for the appropriate year or shall fail to follow the proper procedure in claiming the same, and such failure to claim or to follow such procedure, as the case may be, shall preclude the Beneficiary from claiming the Investment Credit or ADR Deduction or Interest Deduction;

(d) The Beneficiary shall fail to have sufficient income to fully benefit from the Investment Credit or ADR Deduction or Interest Deduction;

(e) After a timely written request to conduct such contest has been given by the Lessee to the Beneficiary, the Beneficiary (i) shall fail to take timely action in contesting the claim made by the Internal Revenue Service with respect to the disallowance of any of the Investment Credit or the ADR Deduction or Interest Deduction, and failure to take such action in a timely manner shall preclude the right of the Beneficiary to contest such claim, or (ii) shall fail to take action to contest any such claim; or the Beneficiary shall, without the prior written consent of the Lessee, release, waive, compromise or settle any action or proceeding taken in accordance with this subparagraph (e); provided, however, that the Beneficiary's responsibility to take or refrain from taking any action pursuant to this subparagraph (e) as a precondition to the payment of any indemnity provided by this Section 16 is expressly subject to the Lessee's agreement to indemnify the Lessor and the Beneficiary from any loss, harm or liability arising as a result of the taking or refraining from taking of such action and to the Lessee's agreement to pay all of the Lessor's and the Beneficiary's costs and expenses, including legal expenses, resulting from taking or refraining from taking any such action; or

(f) Any other act solely of the Beneficiary which directly causes the loss of any of the Investment Credit, the ADR Deduction or the Interest Deduction; provided, however, that the execution and delivery of this Lease and the other documents herein referred to and the carrying out of the transactions contemplated herein and therein in accordance with the terms of this Lease and such other documents shall not be deemed to have caused the loss of such Investment Credit, the ADR Deduction or Interest Deduction under this subparagraph (f);

then the Lessee shall pay the Lessor as supplemental rent an amount which, after deduction of all taxes required to be paid by the Beneficiary and the Lessor in respect of the receipt thereof under the laws of the United States or any state, city or other political subdivision thereof or any foreign government (after giving credit for any savings in respect of any such taxes by reason of deductions, credits or allowances in respect of the payment of any other such taxes), in the reasonable opinion of the Beneficiary, will cause the net after-tax return on the Beneficiary's investment in the Units to be equal to the net after-tax return on such investment which the Beneficiary would have realized had the Beneficiary had the full tax benefit of all of the Investment Credit and all of the ADR Deduction and all of the Interest Deduction described in this Section (after taking into account the amount of any interest or penalties which may be assessed against the Beneficiary in connection with the failure to obtain or have the right to claim, or the disallowance of, such Investment Credit or such ADR Deduction or Interest Deduction). The intent of this indemnity is to provide the Beneficiary the same after-tax rate of return as if no such tax benefits had been lost or disallowed. Such supplemental rent shall be payable concurrently with other rent required under this Lease and shall commence on the rental payment date next succeeding the disallowance of the Beneficiary's right to claim or to have the benefit of the Investment Credit or the ADR Deduction or the Interest Deduction contemplated by this Section.

If the cost of any alteration, replacement, modification, improvement, or addition (hereinafter called a Capital Expenditure) to a Unit made by the Lessee, under and pursuant to the terms of this Lease or otherwise, is required to be included in the gross income of the Beneficiary for federal income tax purposes at any time prior to the time such Unit is disposed of in a taxable transaction, then the rentals for the Units set forth in Section 3 hereof shall, on the next succeeding rental payment date after said inclusion in the Beneficiary's gross income is required, be increased by such amount or amounts as shall, in the reasonable opinion of the Beneficiary, after taking into account any present or future tax benefits that the Beneficiary reasonably anticipates it will derive from its additional investment in the Unit by reason of said inclusion (including without limitation any current deductions, future depreciation deductions and investment tax credit), cause the Beneficiary's net after-tax return to be increased by the portion of said net return lost by the Beneficiary as a result of the inclusion of the cost of such Capital Expenditure in the Beneficiary's gross income. In determining the present or future tax benefits to be taken into account by the Beneficiary in establishing the rental increase required by this paragraph, the Beneficiary shall attempt to maximize such benefits and hence minimize the increase in rents by making such elections (including where advantageous the applicable asset guideline repair allowance and accelerated depreciation, if then permitted) and utilizing such conventions and accounting methods as will further such objectives; provided, however, that the Beneficiary shall not be required to make any election or utilize a

particular convention or accounting method if the Beneficiary determines, in its sole discretion but in good faith, that in so doing it will adversely affect its federal income tax liability determined without regard to this transaction. It is further agreed that the Lessee may claim a deduction for federal income tax purposes of the cost of any such Capital Expenditure which is required to be included in the gross income of the Beneficiary for federal income tax purposes.

In the event any supplemental rent is required to be paid pursuant to this Section, the Casualty Values set forth in Schedule B hereto shall be revised as necessary to preserve the net after-tax return on the Beneficiary's investment in the Units as provided herein above. Notwithstanding anything herein to the contrary, should the Lessee be required to and in fact does make any payment pursuant to the tax indemnification provisions of this Section 16, Lessee shall have the right to determine the forum in which to contest or otherwise challenge the loss or disallowance requiring such payment.

Section 17. Interest on Overdue Rentals. Anything to the contrary herein contained notwithstanding, any nonpayment of rentals or other obligations due hereunder shall result in the obligation on the part of the Lessee promptly to pay, to the extent legally enforceable, an amount equal to 12% per annum of the overdue rentals and other obligations for the period of time during which they are overdue or such lesser amount as may be legally enforceable.

Section 18. Notices. Any notice required or permitted to be given by either party hereto to the other shall be deemed to have been given when mailed, first class, postage prepaid, addressed as follows:

(a) if to the Lessor, at the address set forth in Item 3 of Schedule B hereto;

(b) if to the Lessee, at Two Embarcadero Center, San Francisco, California 94111, Attention: President;

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or addressed to either party at such other address as such party shall hereafter furnish to the other party in writing. Copies of each such notice shall be given to the Vendor at Western Savings Bank Building, Broad and Chestnut Streets, Philadelphia, Pennsylvania 19107, Attention John W. York, Vice President, for notices, and Attention Treasurer for funds, and to ITEL Leasing Corporation, One Embarcadero Center, San Francisco, California 94111, Attention Contract Administration.

Section 19. Severability; Effect and Modification of Lease. Any provision of this Lease which is prohibited or unenforceable in any jurisdiction, shall be, as to such jurisdiction, ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

Section 20. Execution. This Lease may be executed in several counterparts, such counterparts together constituting but one and the same instrument, but the counterpart delivered to the Vendor pursuant to the Assignment hereof to the Vendor shall be deemed to be the original and all other counterparts shall be deemed duplicates thereof. Although for convenience this Lease is dated as of the date first set forth above, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

Section 21. Law Governing. The terms of this Lease and all rights and obligations hereunder shall be governed by the laws of the Commonwealth of Pennsylvania; provided, however, that the parties shall be entitled to all right conferred by Section 20c of the Interstate Commerce Act. It is the intent of the parties hereto that this Lease be a true lease and not a security agreement. The parties hereto further agree that time is of the essence with respect to this Lease and the performance of the parties hereunder.

Section 22. Lessor and Beneficiary. Whenever the term "Lessor" is used in this Lease it shall include the Beneficiary and any assignee of the Beneficiary and, where the context so requires, shall refer only to the Beneficiary.

Section 23. Jurisdiction and Process. The Lessee hereby irrevocably submits to the jurisdiction of the courts of the United States of America or of the Commonwealth of Pennsylvania in any legal action or proceeding instituted in any such court arising out of or related to this Lease or the Participation Agreement or the transactions referred to herein or therein. The Lessor hereby waives the personal service of any process upon Lessee and agrees that service of any summons or other legal process upon it may be affected by depositing a copy thereof in the United States mail, postage prepaid, certified or registered, addressed to Lessee at Two Embarcadero Center, San Francisco, California 94111, Attention: President,

and such mailing shall be deemed in every respect effective service upon the Lessee in any such suit or proceeding.

Section 24. Lessor's Liability. It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that each of and all the representations, covenants, undertakings and agreements herein made on the part of the Owner Trustee are made and intended not as personal representations, covenants, undertakings and agreements by Birmingham Trust National Bank for the purpose or with the intention of binding said bank personally but are made and intended for the purpose of binding the Trust Estate as such term is used in the Trust Agreement, and this Lease is executed and delivered by said bank not in its own right but solely in the exercise of the powers expressly conferred on it as trustee under the Trust Agreement; and except in the case of gross negligence or wilful misconduct no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against said bank on account of this Lease or on account of any representations, covenants, undertakings or agreements of the Owner Trustee. The provisions of this paragraph shall inure to the benefit of any successor trustee under the Trust Agreement.

IN WITNESS WHEREOF, the parties hereto have executed or caused this instrument to be executed as of the date first above written.

SSI RAIL CORP.

[Corporate Seal]

By _____
President

Attest:

Secretary

BIRMINGHAM TRUST NATIONAL BANK,
not in its individual capacity but
solely as Trustee,

[Corporate Seal]

By _____
Authorized Officer

Attest:

Authorized Officer

STATE OF CALIFORNIA)
) ss.
CITY AND COUNTY OF SAN FRANCISCO.)

On this _____ day of _____ 1976, before me
personally appeared _____, to me personally
known, who, being by me duly sworn, says that he is the President of SSI
RAIL CORP., that one of the seals affixed to the foregoing instrument is
the corporate seal of said corporation, that said instrument was signed
and sealed on behalf of said corporation by authority of its Board of
Directors, and he acknowledged that the execution of the foregoing in-
strument was the free act and deed of said corporation.

Notary Public

[Notarial Seal]

My Commission Expires:

STATE OF ALABAMA,)
) ss.
COUNTY OF JEFFERSON.)

On this _____ day of _____ 1976, before me personally appeared _____, to me personally known, who, being by me duly sworn, says that he is an authorized officer of Birmingham Trust National Bank, that one of the seals affixed to the foregoing instrument is the seal of said bank, that said instrument was signed and sealed on behalf of said bank by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said bank.

Notary Public

[Notarial Seal]

My Commission Expires:

SCHEDULE A TO LEASE

<u>Type</u>	<u>Quantity</u>	<u>Lessee's or Sublessee's Road Numbers (Both Inclusive)</u>
50' XM Boxcars	100	MTW 4000-4049* SRN 5150-5199**

* Road Numbers of Marinette, Tomahawk & Western Railroad

** Road Numbers of Sabine River & Northern Railroad Company

SCHEDULE B TO LEASE

Item 1:	<u>Date</u>	<u>Percentage</u>
	July 15, 1976	86.3857
	October 15, 1976	88.3188
	January 15, 1977	89.4493
	April 15, 1977	90.2893
	July 15, 1977	90.9121
	October 15, 1977	91.3813
	January 15, 1978	91.6846
	April 15, 1978	91.9046
	July 15, 1978	91.9179
	October 15, 1978	91.7742
	January 15, 1979	91.4610
	April 15, 1979	91.0411
	July 15, 1979	90.4052
	October 15, 1979	89.6485
	January 15, 1980	88.8356
	April 15, 1980	87.9929
	July 15, 1980	87.1127
	October 15, 1980	86.1983
	January 15, 1981	85.2491
	April 15, 1981	84.2692
	July 15, 1981	83.2530
	October 15, 1981	82.2027
	January 15, 1982	81.1176
	April 15, 1982	80.0009
	July 15, 1982	78.8490
	October 15, 1982	77.6629
	January 15, 1983	76.4420
	April 15, 1983	75.1885
	July 15, 1983	73.9006
	October 15, 1983	72.5786
	January 15, 1984	71.2215
	April 15, 1984	69.8306
	July 15, 1984	68.4061
	October 15, 1984	66.9473

Item 1:
(Cont'd)

Date

Percentage

January 15, 1985	65.4530
April 15, 1985	63.9236
July 15, 1985	62.3614
October 15, 1985	60.7643
January 15, 1986	59.1313
April 15, 1986	57.4616
July 15, 1986	55.7597
October 15, 1986	54.0223
January 15, 1987	52.2483
April 15, 1987	50.4358
July 15, 1987	48.5915
October 15, 1987	46.7109
January 15, 1988	44.7930
April 15, 1988	42.8344
July 15, 1988	40.8442
October 15, 1988	38.8167
January 15, 1989	36.7507
April 15, 1989	34.6413
July 15, 1989	32.4991
October 15, 1989	30.3578
January 15, 1990	28.3122
April 15, 1990	26.3555
July 15, 1990	24.6439
October 15, 1990	23.1329
January 15, 1991	21.8437
April 15, 1991	20.8115
Thereafter	20.0000

Item 2: Anniversary of
Delivery and
Acceptance

Percentage of
Purchase
Price

Third	19.8808%
Fifth	13.2539%
Seventh	6.6269%

Item 3: Birmingham Trust National Bank
P.O. Box 2554
112 North 20th Street
Birmingham, Alabama 35290
Attention: Carl B. Smith
Vice President

SCHEDULE C TO LEASE

CERTIFICATE OF ACCEPTANCE

This CERTIFICATE OF ACCEPTANCE, dated as of _____, 1976, executed and delivered by SSI RAIL CORP., a Delaware corporation (hereinafter called Lessee), to BIRMINGHAM TRUST NATIONAL BANK, not in its individual capacity but solely as Trustee under Owner Trust Agreement dated April 1, 1976 (hereinafter called the Lessor).

W I T N E S S E T H :

WHEREAS, Lessor and Lessee have heretofore entered into that certain Lease dated as of April 1, 1976 (herein called the Lease and the terms defined therein being hereinafter used with the same meaning), which Lease provides for the execution and delivery from time to time of Certificates of Acceptance substantially in the form hereof for the purposes of confirming acceptance of the Units of Equipment leased under the Lease;

NOW, THEREFORE, in consideration of the premises and other good and sufficient consideration, Lessee hereby confirms and agrees as follows:

1. Lessee hereby after a full inspection accepts and leases from Lessor under the Lease, the Units of Equipment which are described below.

Equipment

Lessee's or Sublessee's Road Numbers

2. The acceptance date of the Units of Equipment is the date of this Certificate of Acceptance set forth in the opening paragraph hereof.

3. Lessee hereby confirms to Lessor that the Units of Equipment have been duly inspected in accordance with the Lease and duly marked in accordance with the terms of Section 5 of the Lease and that Lessee has accepted the Units of Equipment for all purposes hereof and of the Lease; provided, however, that nothing contained herein or in the Lease shall in any way diminish or otherwise affect any right which Lessee or Lessor may have with respect to the Units of Equipment under and pursuant to the warranties given by the Vendor in the Conditional Sale Agreement.

IN WITNESS WHEREOF, Lessee has caused this Certificate of Acceptance to be duly executed as of the day and year first above written.

SSI RAIL CORP., as Lessee

By _____

(Title)